PROVIDENCE CITY COUNCIL MEETING AGENDA
July 14, 2015 6:00 p.m.
15 South Main, Providence UT

The Providence City Council will begin discussing the following agenda items at 6:00 p.m. Anyone interested is invited to attend.

Call to Order: Mayor Calderwood
Roll Call of City Council Members: Mayor Calderwood
Pledge of Allegiance:

Approval of the minutes
Item No. 1. The Providence City Council will consider approval of the minutes of June 23, 2015 City Council meeting.

Public Comments: Citizens may appear before the City Council to express their views on issues within the City's jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per person. The total time allotted to public comment is 15 minutes The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

Public Hearing 6:15 pm: Prior to making a decision on vacating a portion of right-of-way (approximately 22 feet x 344 feet) along the east side of 300 East beginning generally at 260 south and ending at 200 South; and vacating a portion of right-of-way (approximately 47 feet x 200 feet) along the south side of 200 South generally located at 350 East, the City Council is holding a public hearing. The purpose of the public hearing is to provide an opportunity for anyone interested to comment on the proposal before action is taken. The City Council invites you to attend the hearing in order to offer your comments.

Business Items:
Item No. 1. Discussion: Dr. John Keith will discuss the proposed Cache County Water Conservancy District.
Item No. 2. Ordinance No. 2015-017: The Providence City Council will consider for adoption an ordinance vacating a portion of right-of-way (approximately 22 feet x 344 feet) along the east side of 300 East beginning generally at 260 south and ending at 200 South; and vacating a portion of right-of-way (approximately 47 feet x 200 feet) along the south side of 200 South generally located at 350 East.
Item No. 3. Ordinance No. 2015-016: The Providence City Council will consider for adoption an ordinance amending Providence City Code 10-8-5: Commercial Zoned Districts; Site Development and 10-8-6: Parking Regulations.
Item No. 4. Resolution 027-2015: The Providence City Council will consider for adoption a resolution establishing restrictions on the use of fireworks.
Item No. 5. Resolution 023-2015: The Providence City Council will consider for adoption a resolution approving the franchise agreement for Comcast
Item No. 6. Resolution 024-2015: The Providence City Council will consider for adoption a resolution approving the Providence City Cash Management Policy.
Item No. 7. Resolution 025-2015: The Providence City Council will consider for adoption a resolution approving the fee for Not Sufficient Fund returns.
Item No. 8. Resolution 021-2015: The Providence City Council will consider for adoption a resolution amending the Providence City Personnel Policy Section 9 Retirement, by classifying appointed officials as full-time or part-time dependent upon the position.
Item No. 9. Resolution 026-2015: The Providence City Council will consider for adoption a resolution approving an Interlocal Agreement with the Cities of Logan, Nibley, Providence, River Heights, North Logan, Hyde Park, and Smithfield creating regional wastewater treatment rate committee.

Staff Reports: Items presented by Providence City Staff will be presented as information only.

Council Reports: Items presented by the City Council members will be presented as informational only; no formal

action will be taken. The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

Executive Session:
Item No. 1. The Providence City Council may enter into a closed session to discuss land acquisition or the sale of real property Utah Code 52-4-205(1) (d) and (e).
Item No. 2. The Providence City Council may enter into a closed session discuss pending litigation Utah Code 52-4-205(1) (c).
Item No. 3. The Providence City Council may enter into a closed session as allowed by Utah Code 52-4-205(1) (a)

Agenda posted the 9 day of July 2015.

Skarlet Bankhead
City Recorder

If you are disabled and/or need assistance to attend council meeting, please call 752-9441 before 5:00 p.m. on the day of the meeting.
Pursuant to Utah Code 52-4-207 Electronic Meetings – Authorization – Requirements the following notice is hereby given:

- Providence City Ordinance Modification 015-2006, adopted 11/14/2006, allows City Council member(s) to attend by teleconference.
- The anchor location for this meeting is: Providence City Office Building, 15 South Main, Providence, UT.
- Member(s) will be connected to the electronic meeting by teleconference.

PROVIDENCE CITY COUNCIL MEETING MINUTES
June 23, 2015 6:00 p.m.
15 South Main, Providence UT

Call to Order:	Mayor Calderwood
Roll Call of City Council Members:	Mayor Calderwood
Attendance:	Bill Bagley, Jeff Baldwin, Ralph Call, John Drew, John Russell
Pledge of Allegiance:	Mayor Calderwood

Approval of the minutes

Item No. 1. The Providence City Council will consider approval of the minutes of June 9, 2015 City Council meeting.

Motion to approve the minutes with the following changes: J Baldwin, second – B Bagley

- Page 2, line 22 – 24 instead of several
- Page 6, top add Stan Checketts name in ().

Vote: Yea: B Bagley, J Baldwin, R Call, J Drew
Nay: None
Abstained: J Russell
Excused: None

Public Comments: Citizens may appear before the City Council to express their views on issues within the City's jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per person. The total time allotted to public comment is 15 minutes The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

- J Baldwin asked R Eck if he'd had an opportunity to speak with the power company about the power pole that was damaged a few weeks ago. R Eck said he had called them, but has not yet heard back from them.

Item No. 2 was discussed before the public hearing.

Item No. 2. Resolution 019-2015: The Providence City Council will consider for adoption a resolution accepting the certified tax rate for Tax Year 2015.

Motion to adopt Resolution 019-2015: J Russell, second – J Baldwin

- S Bankhead reviewed the tax rate for tax year 2015. She asked the Council to accept the certified tax rate.
- R Call commented that the rates don't actually go down because property valuations always go up. He also feels there should be a tax increase to compensate for the monies used to purchase the new city office building.

Vote: Yea: B Bagley, J Baldwin, J Drew, J Russell
Nay: R Call
Abstained: None
Excused: None

Public Hearing 6:15 pm: Prior to approving the final adjustments 2015 Budgets for all Funds (General, Capital Project, Water, Sewer, and Storm Water), the City Council is holding a public hearing. The purpose of the public hearing is to provide an opportunity for anyone interested to comment on the proposed budgets before action is taken. The City Council invites you to attend the hearing in order to offer your comments.

- No public comments.

Business Items:

Item No. 1. Resolution 020-2015: The Providence City Council will consider for adoption a resolution approving the final adjustments for 2015 Budgets for all funds (General, Capital Project, Water, Sewer, and Storm Water).

Motion to approve Resolution 020-2015: J Baldwin, second – B Bagley

- S Bankhead reviewed the final adjustments for the Council. Asked for $10,000 to be moved from Community Development to Administration for attorney fees. Fuel costs were down, but sanitation costs did not quite cover what was used so would like to move $10,000 from Public Works Department to Administration for sanitation fees. Bid on sewer project - asking to take $82,000 from prior year revenue budget and moving it to sewer construction/capital outlay line item for Hwy. 165 utility line project.

Vote: Yea: B Bagley, J Baldwin, J Drew, J Russell

Nay: **R Call**
Abstained: **None**
Excused: **None**

Item No. 3. Resolution 021-2015: The Providence City Council will consider for adoption a resolution amending the Providence City Personnel Policy Section 9 Retirement, by classifying appointed officials as full-time.

Motion to adopt Resolution 021-2015: J Baldwin, second – B Bagley

- S Bankhead said the audit is requiring this classification for elected officials and appointed officials. There are three appointed officials that work full-time so the auditor suggested all appointed officials be classified as full-time.
- J Russell asked what potential there is for other employees to be classified in this way.
- S Bankhead said if appointed officials are not compensated, they do not have to be classified as full-time. If they are paid a stipend, they need to be classified as full-time. This includes Planning Commission and Historical Preservation Commission.
- J Russell also said these appointments do not necessarily cover all duties. Some of the duties could be divided up and then could be given to a part-time person.
- S Bankhead said this item could be continued and she can further investigate with the insurance representative.
- J Drew asked if there was any kind of monetary burden associated with this. S Bankhead said not any more than what already exists.

Motion to continue: J Baldwin, second – J Russell

Vote: **Yea:** **B Bagley, J Baldwin, R Call, J Drew, J Russell**
Nay: **None**
Abstained: **None**
Excused: **None**

Item No. 4. Resolution 022-2015: The Providence City Council will consider for adoption a resolution selecting an auditor for the 2015 – 2019 Audits.

Motion to adopt Resolution 022-2015: J Russell, second – J Drew

- S Bankhead explained why this is before the Council.
- J Drew asked if anyone had checked with the State of Utah to make sure the companies that submitted bids are bona-fide firms.
- J Russell said he would like to make sure the companies are in good standing with the State of Utah and also check references of past clients.

Motion to accept bid from Aycock, Miles and Associates, pending confirmation from the state they are in good standing and references are checked. J Russell, second – R Call

Vote: **Yea:** **B Bagley, J Baldwin, R Call, J Drew, J Russell**
Nay: **None**
Abstained: **None**
Excused: **None**

Item No. 5. Ordinance No. 2015-016: The Providence City Council will consider for adoption an ordinance amending Providence City Code 10-8-5: Commercial Zoned Districts; Site Development and 10-8-6: Parking Regulations.

Motion to approve Ordinance No. 2015-016: J Baldwin, second – B Bagley

- S Bankhead said the Planning Commission has spent a lot of time on this. This information was given to the Council at a late date and she suggested this be continued in order to give the Council time to review.

Motion to continue Ordinance No. 2015-016 to next meeting: J Drew, second – R Call

Vote: **Yea:** **B Bagley, J Baldwin, R Call, J Drew, J Russell**
Nay: **None**
Abstained: **None**
Excused: **None**

Staff Reports: Items presented by Providence City Staff will be presented as information only.

R Eck:

- J Baldwin asked if boring on Hwy 165 had started yet. R Eck said no. Kings did withdraw.

- J Drew asked about the weeds and the hot dry weather that is coming.
- R Eck said right now the Fire Marshall handles complaints for weeds that are considered fire fuel on private property and sends a letter to the person who the complaint is registered against. The City has been mowing the shoulders of the roads and other City properties to try and set an example for residents.
- R Call asked if R Eck had heard of any fire concerns for the 4th of July. He asked if other communities could be contacted to see what actions they may be considering for the 4th of July.
- J Russell suggested following what the state recommends.
- R Call felt the 4th might be fine, but the 24th could be an issue.
- R Eck asked the Council if they had thought about outdoor culinary water restrictions before the community is in trouble. He said many cities on the Wasatch Front have gone to stage 2 water conservation methods.
- R Call felt like the community needed to practice better water habits. People using irrigation water have to water when they get their turn, but that is different than using culinary water.
- S Bankhead said a resolution could be put together for culinary water use for next meeting. Information can be posed in the paper and on the website. It can be included in the newsletter. Radio public service announcements can be made. A banner at the ball park was suggested. Hours would be included – outdoor culinary water use from 8 pm to 8 am.
- J Russell asked about Hampshire Park water.
- R Eck said the park has been watered for two weeks. Residents are not connected to that source yet.

S Bankhead:

- Submitted financial statement ending May 31. She is working with the county on the elections. Still have seven candidates. Primary elections are on August 11. Ballots should be in the mail in about three weeks.

Council Reports: Items presented by the City Council members will be presented as informational only; no formal action will be taken. The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

- B Bagley said he would like to have the gentleman come and talk to the Council again about the emergency broadcast system.
- J Drew :
    - At the request of Laura Fisher and Bob Bissland, he has gone to the Sheriff to discuss noise and vehicle issues. The Sheriff prefers to cite for muffler violations rather than noise and suggested J Drew talk to Kevin Fife. He has done that and Kevin said the noise ordinance addresses more of a stationary violation. K Fife said multiple occasions with vehicle violations need to be identified and then citizens need to be willing to testify.
    - Dr. Nummer has contacted J Drew regarding the justice court system in Providence. He would like to be on the agenda to discuss his concerns with the Council. John suggested he get talking points together and contact the Mayor.
    - Has concerns about a warranty being provided in the purchase agreement for the new office building. Mayor said no warranty was required. J Drew feels there was not adequate time to review the purchase agreement and it shouldn't have been on the agenda.
    - State Code, Title 10 – municipal gov't acquiring real property. He read first paragraph of the title regarding acquisition of real property by a municipality. He feels the state code was not followed in acquiring the new city building.
- R Call suggested moving the July 28th meeting to July 21st in order to accommodate the developers for the Stan Checketts' property. Depending on how the publishing schedule works it could be done, but there is a possibility that it will have to stay on the 28th. If there are no protests by July 13th then it can be moved to the 21st.
- J Russell attended Historic Preservation Commission meeting. They are working on a monument for the school bell. Chalene McGrath is stepping down as chairman so more people are needed for that Commission.
- J Baldwin – no comment.
- Mayor Calderwood:
    - Attended CMPO meeting last week. No actions were taken.

- Gave a condensed copy of the House Bill concerning "gas tax" to each council member previously. Attended Mayor's dinner last Saturday. Utah League of Cities and Towns gave a presentation on how to allocate money based on the tax. If the county goes for the sales tax increase, then it has to be addressed. If the county does not have an increase then there is nothing to discuss.
- Draft for the Waste Water Agreement with Logan was approved by the seven Mayor's which will be presented to Council at next meeting for approval.
- Nibley is no longer interested in being a part of the Hyrum/Nibley/Providence inter-local. Last Friday Mayor and Skarlet talked to David Zook about sitting down with Hyrum to professionally inform the other Mayors.
- S Bankhead said the agreement being discussed is just for treatment. There is a separate agreement that deals with collection.
- Department of Water Quality meets tomorrow and Mayor feels the $70 million will be loaned to Logan with the draft agreement as compromise.
- Mayor and staff are studying the "collection" portion (treatment) of our cost with Logan wastewater for a better understanding of how that all works.
- 200 West had a court appearance and asked for a two week extension, which was granted.
- The City closed on the building on Gateway Drive last week.

No executive session.

Motion to adjourn: J Drew, second – R Call

Vote:	**Yea:**	**B Bagley, J Baldwin, R Call, J Drew, J Russell**
	Nay:	**None**
	Abstained:	**None**
	Excused:	**None**

Meeting adjourned at 7:40 pm.

Minutes recorded and prepared by C Craven.

_____ _____

Don W. Calderwood, Mayor

Skarlet Bankhead, City Recorder

Providence City

15 South Main Street
Providence, UT 84332
(435) 752-9441 • Fax: (435)753-1586

PROVIDENCE CITY COUNCIL
NOTICE OF PUBLIC HEARING

Project Type:	Vacate a portion of Right-of-Way
Applicant:	Providence City
Project Location/Description:	Vacate a portion of right-of-way (approximately 22 feet x 344 feet) along the east side of 300 East beginning generally at 260 south and ending at 200 South; and vacating a portion of right-of-way (approximately 47 feet x 200 feet) along the south side of 200 South generally located at 350 East.
Hearing Date:	July 14, 2015
Hearing Time:	6:15 p.m.
Hearing Location:	Providence City Office Building, 15 South Main, Providence UT

Prior to making a decision on this project, the City Council is holding a public hearing. The purpose of the public hearing is to provide an opportunity for anyone interested to comment on the proposal before action is taken. The City Council invites you to attend the hearing in order to offer your comments.

If you are disabled and/or need assistance to attend the public hearing, please call 752-9441 before 5:00 p.m. on the day of the meeting.

Thank you,

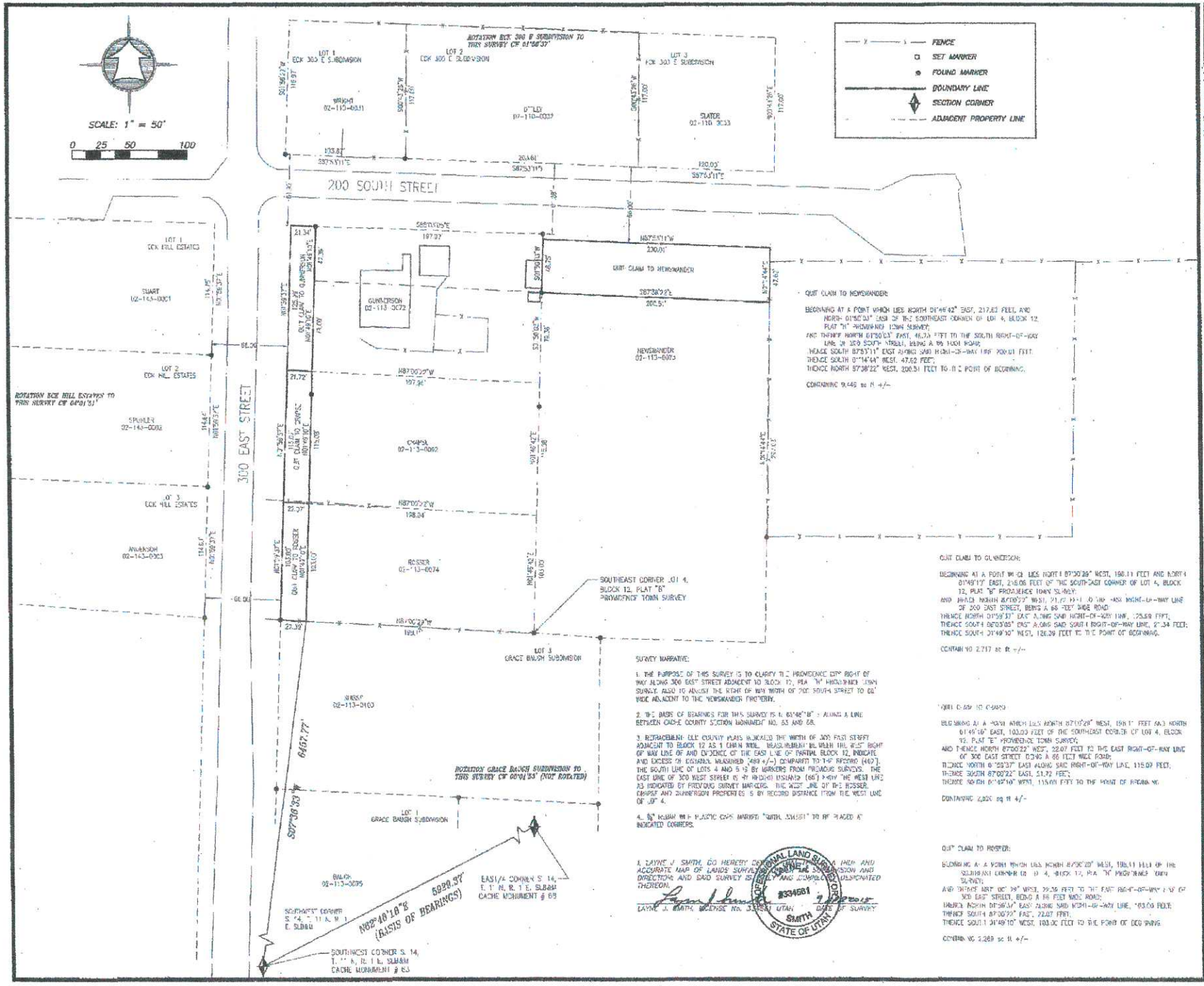
Skarlet Bankhead
City Administrator/Recorder

Newspaper Publication Date(s): Thursday, July 2, 2014

Posting Date: July 1, 2015
Posting Locations:

1. Approximately 350 East 200 South
2. Approximately 250 South 300 East

Also posted on www.providencecity.com and the Utah Public Notice Website



QUIT CLAIM TO NEWSWANDER:

BEGINNING AT A POINT WHICH LIES NORTH 01°49'42" EAST, 217.62 FEET, AND NORTH 01°50'01" EAST OF THE SOUTHEAST CORNER OF LOT 4, BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY;
AND THENCE NORTH 01°50'01" EAST, 46.70 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF 200 SOUTH STREET, BEING A 66 FOOT ROAD;
THENCE SOUTH 87°53'11" EAST ALONG SAID RIGHT-OF-WAY LINE 200.01 FEET;
THENCE SOUTH 01°14'44" WEST, 47.62 FEET;
THENCE NORTH 87°38'22" WEST, 200.51 FEET TO THE POINT OF BEGINNING.

CONTAINING 9,446 sq ft +/-

QUIT CLAIM TO GUNNERSON:

BEGINNING AT A POINT WHICH LIES NORTH 87°00'22" WEST, 198.11 FEET AND NORTH 01°49'10" EAST, 216.06 FEET OF THE SOUTH-EAST CORNER OF LOT 4, BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY;
AND THENCE NORTH 87°00'22" WEST, 21.72 FEET TO THE EAST RIGHT-OF-WAY LINE OF 300 EAST STREET, BEING A 66 FEET WIDE ROAD;
THENCE NORTH 01°56'37" EAST ALONG SAID RIGHT-OF-WAY LINE, 125.69 FEET;
THENCE SOUTH 88°03'05" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 21.34 FEET;
THENCE SOUTH 01°49'10" WEST, 126.39 FEET TO THE POINT OF BEGINNING.

CONTAINS 2,717 sq ft +/-

QUIT CLAIM TO ROSSER:

BEGINNING AT A POINT WHICH LIES NORTH 87°00'22" WEST, 198.11 FEET AND NORTH 01°49'10" EAST, 102.03 FEET OF THE SOUTHEAST CORNER OF LOT 4, BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY;
AND THENCE NORTH 87°00'22" WEST, 22.07 FEET TO THE EAST RIGHT-OF-WAY LINE OF 300 EAST STREET BEING A 66 FEET WIDE ROAD;
THENCE NORTH 01°56'37" EAST ALONG SAID RIGHT-OF-WAY LINE, 115.07 FEET;
THENCE SOUTH 87°00'22" EAST, 21.72 FEET;
THENCE SOUTH 01°49'10" WEST, 115.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 2,420 sq ft +/-

QUIT CLAIM TO ROSSER:

BEGINNING AT A POINT WHICH LIES NORTH 87°00'22" WEST, 198.11 FEET OF THE SOUTHEAST CORNER OF LOT 4, BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY;
AND THENCE NORTH 87°00'22" WEST, 29.36 FEET TO THE EAST RIGHT-OF-WAY LINE OF 300 EAST STREET, BEING A 66 FEET WIDE ROAD;
THENCE NORTH 01°56'37" EAST ALONG SAID RIGHT-OF-WAY LINE, 103.06 FEET;
THENCE SOUTH 87°00'22" EAST, 22.07 FEET;
THENCE SOUTH 01°49'10" WEST, 103.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 2,269 sq ft +/-

SURVEY NARRATIVE:

1. THE PURPOSE OF THIS SURVEY IS TO CLARIFY THE PROVIDENCE CITY RIGHT-OF-WAY ALONG 300 EAST STREET ADJACENT TO BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY. ALSO TO ADJUST THE RIGHT-OF-WAY WIDTH OF 200 SOUTH STREET TO 66' WIDE ADJACENT TO THE NEWSWANDER PROPERTY.

2. THE BASIS OF BEARINGS FOR THIS SURVEY IS N. 82°40'18" E. ALONG A LINE BETWEEN CACHE COUNTY SECTION MONUMENT NO. 63 AND 69.

3. RETRACEMENT: CUE COUNTY PLATS INDICATED THE WIDTH OF 300 EAST STREET ADJACENT TO BLOCK 12 AS 1 CHAIN WIDE. MEASUREMENT BETWEEN THE WEST RIGHT-OF-WAY LINE OF AND EVIDENCE OF THE EAST LINE OF PARTIAL BLOCK 12, INDICATE AN EXCESS OF EXISTING MONUMENTED (.489 +/-) COMPARED TO THE RECORD (.467). THE SOUTH LINE OF LOTS 4 AND 5 (2 BY MARKERS FROM PREVIOUS SURVEYS. THE EAST LINE OF 300 WEST STREET IS 49 INCHES (USTAND (66') NORTH THE WEST LINE AS INDICATED BY PREVIOUS SURVEY MARKERS. THE WEST LINE OF THE ROSSER, CHAPEL AND GUNNERSON PROPERTIES IS BY RECORD DISTANCE FROM THE WEST LINE OF LOT 4.

4. ½" REBAR WITH PLASTIC CAP MARKED "SMITH, 334581" TO BE PLACED AT INDICATED CORNERS.

I, LAYNE J. SMITH, DO HEREBY CERTIFY THAT I AM A DULY REGISTERED PROFESSIONAL LAND SURVEYOR AND THAT I HOLD LICENSE NO. 334581 AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED HEREON, AND THAT THIS PLAT IS A TRUE AND ACCURATE MAP OF LANDS SURVEYED AND SUBDIVISION AND DIRECTIONS AND SAID SURVEY IS ACCURATELY AND CORRECTLY DESIGNATED THEREON.

LAYNE J. SMITH, LICENSE No. 334581 UTAH — DATE OF SURVEY

PROFESSIONAL LAND SURVEYOR #334581 SMITH STATE OF UTAH

Skyline A/E/S, INC.
Architecture / Engineering / Surveying
95 W. Golf Course Rd. #101 / Logan, UT 84321
(435) 752-8001 / fax (435) 752-8597

300 EAST STREET
200 SOUTH STREET
RIGHT OF WAY SURVEY
PROVIDENCE, UT

Project Number: 15-010	Drawn By: L. SMITH
Date: 24 FEB 2015	Sheet Scale: 1"= 50'
Approved By:	File Name:

Ordinance No. 2015-016

AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE PROVIDENCE CITY CODE 10-8-5: COMMERCIAL ZONED DISTRICTS; SITE DEVELOPMENT AND 10-8-6: PARKING REGULATIONS

WHEREAS UCA § 10-9a-102.(2) states ". . . municipalities my enact all ordinances, resolutions, and rules and may enter into other forms of land use controls . . ." and

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, soil content.

- Providence City staff prepared the attached code amendment.
- Planning Commission studied the proposed amendment and held a public hearing prior to making a recommendation.
- Providence City Planning Commission took the following action on May 27, 2015:
  - *Item No. 4. Proposed Code Amendment: The Providence City Planning Commission will consider for recommendation to the City Council, proposed amendments to Providence City Code 10-8-5: Commercial Zoned Districts; Site Development and 10-8-6: Parking Regulations.*
  - *Motion to recommend to City Council for approval the proposed amendments to 10-8-5 and 10-8-6 with the above mentioned changes regarding trees in buffer zone and overall landscaping, and change wording from "handicap" to "individuals with disabilities": H Hansen, second – R James*

    Vote: Yea: K Allen, H Hansen, R James, L Raymond, W Simmons
    Nay: None
    Abstained: None
    Excused: S Sanders
- The changes in the Planning Commission motion have been incorporated in the attached amendment.
- The City Council considered the following:

  Findings of Fact:
  - Providence City Code (PCC) 10-1-5:A. states changes and amendments to this Zoning Title shall be done in accordance with state law.
  - UCA § 10-9a-501 states the legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in in this chapter.
  - UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing on a proposed land use ordinance or zoning map; and prepare and recommend to the legislative body a proposed land use ordinance and zoning map that represent the planning commission's recommendation.
  - UCA 10-9a-503.(1) The legislative body may amend: (b) any regulation of or within the zoning district; or (c) any other provision of a land use ordinance.

  Conclusions of Law:
  - The proposed amendment has been processed in accordance with the above

  Conditions:

- None

THEREFORE be it ordained by the Providence City Council:

- The attached code amendment shall be approved based on the findings of fact, conclusions of law, and conditions listed above and the recommendation of the Providence City Planning Commission.
- This ordinance shall become effective immediately upon passage and posting.

Ordinance adopted by vote of the Providence City Council this 14 day of July 2015.

Council Vote:

Bagley, Bill	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Baldwin, Jeff	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Call, Ralph	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Drew, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Russell, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent

Signed by Mayor Don W Calderwood this day of 2015.

Providence City

_____

Don W. Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder

Ordinance No. 2015-017

AN ORDINANCE VACATING A PORTION OF RIGHT-OF-WAY (APPROXIMATELY 22 FEET X 344 FEET) ALONG THE EAST SIDE OF 300 EAST BEGINNING GENERALLY AT 260 SOUTH AND ENDING AT 200 SOUTH; AND VACATING A PORTION OF RIGHT-OF-WAY (APPROXIMATELY 47 FEET X 200 FEET) ALONG THE SOUTH SIDE OF 200 SOUTH GENERALLY LOCATED AT 350 EAST.

WHEREAS UCA § 10-9a-102.(2) states ". . . municipalities my enact all ordinances, resolutions, and rules and may enter into other forms of land use controls . . ." and

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, soil content.

WHEREAS UCA § 10-9a-609.5 lists the requirements to vacate a street, right-of-way, or easement.

- Providence City had the attached plat prepared showing the area to be vacated.
- Providence City feels good cause exists for the vacation; and neither the public interest nor any person will be materially injured by the vacation.
    - 300 East is intended to be a 66-foot right-of-way. Vacating the proposed area will leave a 66-foot right-of-way.
    - 200 South is intended to be a 66-foot right-of-way. Vacating the proposed area will leave a 66-foot right-of-way.
    - Without vacating approximately a width of 22 feet from the right-of-way at 260 South 300 East and 250 South 300 East, the front setbacks are less than the minimum requirements.

THEREFORE be it ordained by the Providence City Council

- The Providence City Council finds that there is good cause for the vacation; and neither the public interest nor any person will be materially injured by the vacation.
- The right-of-way, as indicated on the attached plat, shall be vacated.
- This ordinance shall become effective immediately upon passage and posting.

Ordinance adopted by vote of the Providence City Council this 14 day of July 2015.

Council Vote:

Bagley, Bill	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Baldwin, Jeff	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Call, Ralph	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Drew, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Russell, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent

Signed by Mayor Don W Calderwood this day of 2015.

Providence City

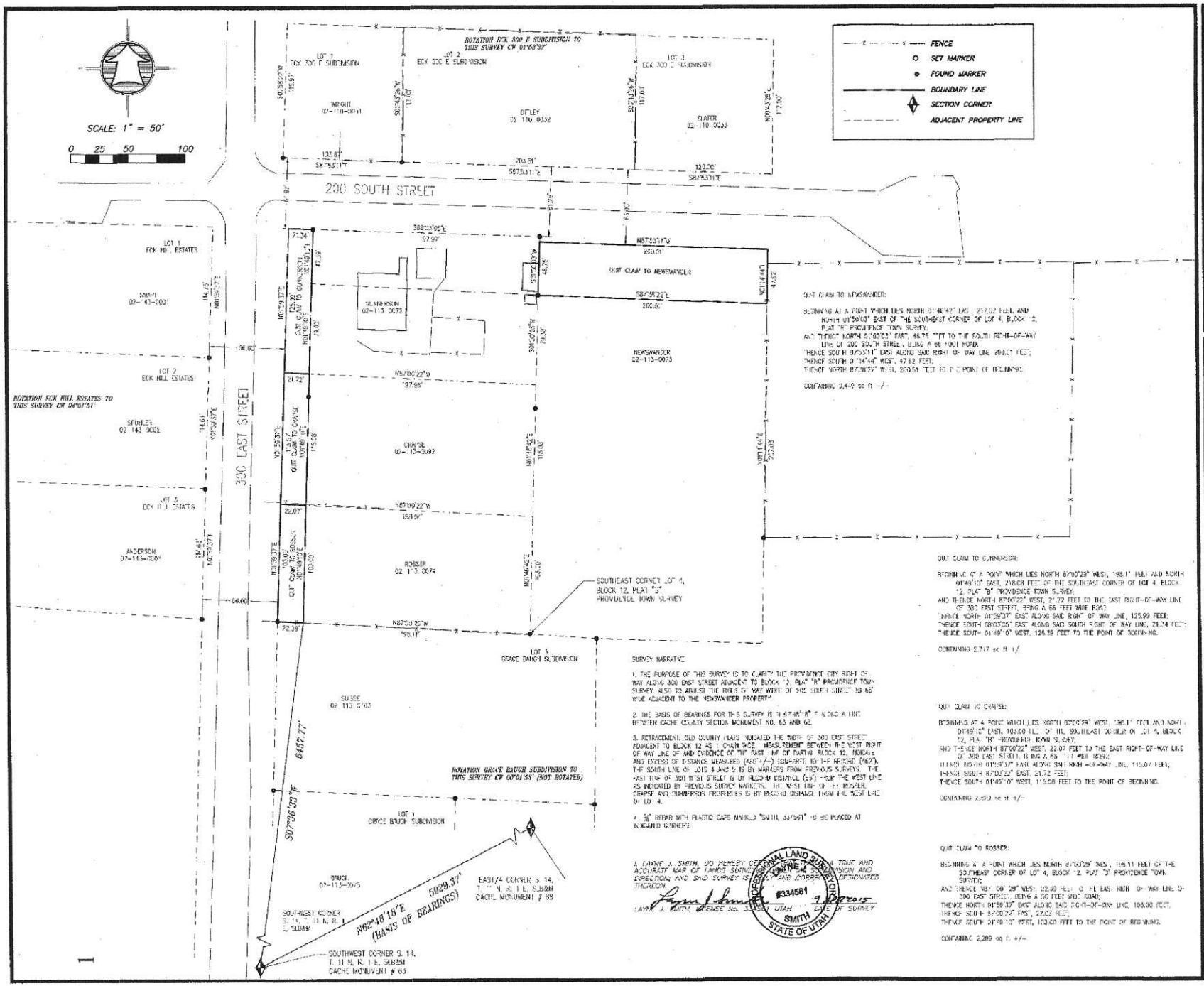
_____

Don W. Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder



QUIT CLAIM TO NEWSWANDER:

BEGINNING AT A POINT WHICH LIES NORTH 01°48'42" EAST, 217.02 FEET, AND NORTH 01°58'03" EAST OF THE SOUTHEAST CORNER OF LOT 4, BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY;
AND THENCE NORTH 87°03'03" EAST, 46.75 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF 200 SOUTH STREET, BEING A 66 FOOT WIDE ROAD;
THENCE SOUTH 87°53'11" EAST ALONG SAID RIGHT OF WAY LINE 206.01 FEET;
THENCE SOUTH 01°14'44" WEST, 47.62 FEET;
THENCE NORTH 87°28'22" WEST, 200.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 9,449 sq ft +/-

QUIT CLAIM TO GUNNERSON:

BEGINNING AT A POINT WHICH LIES NORTH 87°00'29" WEST, 198.11 FEET AND NORTH 01°49'10" EAST, 218.08 FEET OF THE SOUTHEAST CORNER OF LOT 4, BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY;
AND THENCE NORTH 87°00'29" WEST, 21.72 FEET TO THE EAST RIGHT-OF-WAY LINE OF 300 EAST STREET, BEING A 66 FEET WIDE ROAD;
THENCE NORTH 01°59'37" EAST ALONG SAID RIGHT OF WAY LINE, 125.99 FEET;
THENCE SOUTH 88°03'05" EAST ALONG SAID SOUTH RIGHT OF WAY LINE, 21.34 FEET;
THENCE SOUTH 01°49'10" WEST, 126.39 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,717 sq ft +/-

QUIT CLAIM TO CRAWSE:

BEGINNING AT A POINT WHICH LIES NORTH 87°00'29" WEST, 198.11 FEET AND NORTH 01°49'10" EAST, 103.00 FEET OF THE SOUTHEAST CORNER OF LOT 4, BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY;
AND THENCE NORTH 87°00'29" WEST, 22.07 FEET TO THE EAST RIGHT-OF-WAY LINE OF 300 EAST STREET, BEING A 66 FEET WIDE ROAD;
THENCE NORTH 01°59'37" EAST ALONG SAID RIGHT-OF-WAY LINE, 115.08 FEET;
THENCE SOUTH 87°00'22" EAST, 21.72 FEET;
THENCE SOUTH 01°49'10" WEST, 115.08 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,459 sq ft +/-

QUIT CLAIM TO ROSSER:

BEGINNING AT A POINT WHICH LIES NORTH 87°00'29" WEST, 198.11 FEET OF THE SOUTHEAST CORNER OF LOT 4, BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY;
AND THENCE NORTH 87°00'29" WEST, 22.00 FEET, TO THE EAST RIGHT-OF-WAY LINE OF 300 EAST STREET, BEING A 66 FEET WIDE ROAD;
THENCE NORTH 01°59'37" EAST ALONG SAID RIGHT-OF-WAY LINE, 103.00 FEET;
THENCE SOUTH 87°28'22" EAST, 22.02 FEET;
THENCE SOUTH 01°49'10" WEST, 103.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,269 sq ft +/-

SURVEY NARRATIVE:

1. THE PURPOSE OF THIS SURVEY IS TO CLARIFY THE PROVIDENCE CITY RIGHT OF WAY ALONG 300 EAST STREET ADJACENT TO BLOCK 12, PLAT "B" PROVIDENCE TOWN SURVEY. ALSO TO ADJUST THE RIGHT OF WAY WIDTH OF 200 SOUTH STREET TO 66' WIDE ADJACENT TO THE NEWSWANDER PROPERTY.

2. THE BASIS OF BEARINGS FOR THIS SURVEY IS N 62°48'18" E ALONG A LINE BETWEEN CACHE COUNTY SECTION MONUMENT NO. 63 AND 65.

3. RETRACEMENT OLD COUNTY PLATS INDICATED THE WIDTH OF 300 EAST STREET ADJACENT TO BLOCK 12 AS 1 CHAIN WIDE. MEASUREMENT BETWEEN THE WEST RIGHT OF WAY LINE OF AND EVIDENCE OF THE EAST LINE OF PARTIAL BLOCK 12, INDICATE AND EXCESS OF DISTANCE MEASURED (496'+/-) COMPARED TO THE RECORD (462'). THE SOUTH LINE OF LOTS 4 AND 5 IS BY MARKERS FROM PREVIOUS SURVEYS. THE EAST LINE OF 300 EAST STREET IS BY RECORD DISTANCE (66') FROM THE WEST LINE AS INDICATED BY PREVIOUS SURVEY MARKERS. THE WEST LINE OF THE ROSSER, CRAWSE AND GUNNERSON PROPERTIES IS BY RECORD DISTANCE FROM THE WEST LINE OF LOT 4.

4. ½" REBAR WITH PLASTIC CAPS MARKED "SMITH, 334561" TO BE PLACED AT INDICATED CORNERS.

I, LAYNE J. SMITH, DO HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND ACCURATE MAP OF LANDS SURVEYED UNDER MY DIRECTION AND SAID SURVEY IS CORRECT AND CORRECTLY DESIGNATED THEREON.

LAYNE J. SMITH, License No. 334561 UTAH DATE OF SURVEY

PROFESSIONAL LAND SURVEYOR LICENSE NO. #334561 LAYNE J. SMITH STATE OF UTAH

Skyline A/E/S, INC.
Architecture / Engineering / Surveying
95 W. Golf Course Rd. #101, Logan, UT 84321
(435) 752-8501 / Fax (435) 752-8507

300 EAST STREET 200 SOUTH STREET
RIGHT OF WAY SURVEY PROVIDENCE, UT

Project Number: 15-010	Drawn By: L. SMITH
Date: 24 FEB 2016	Sheet Scale: 1" = 50'
Approved by:	
File Name:	

Ordinance No. 2015-016

AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE PROVIDENCE CITY CODE 10-8-5: COMMERCIAL ZONED DISTRICTS; SITE DEVELOPMENT AND 10-8-6: PARKING REGULATIONS

WHEREAS UCA § 10-9a-102.(2) states ". . . municipalities my enact all ordinances, resolutions, and rules and may enter into other forms of land use controls . . ." and

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, soil content.

- Providence City staff prepared the attached code amendment.
- Planning Commission studied the proposed amendment and held a public hearing prior to making a recommendation.
- Providence City Planning Commission took the following action on May 27, 2015:
  - *Item No. 4. Proposed Code Amendment: The Providence City Planning Commission will consider for recommendation to the City Council, proposed amendments to Providence City Code 10-8-5: Commercial Zoned Districts; Site Development and 10-8-6: Parking Regulations.*
  - *Motion to recommend to City Council for approval the proposed amendments to 10-8-5 and 10-8-6 with the above mentioned changes regarding trees in buffer zone and overall landscaping, and change wording from "handicap" to "individuals with disabilities": H Hansen, second – R James*

    Vote: Yea: K Allen, H Hansen, R James, L Raymond, W Simmons
    Nay: None
    Abstained: None
    Excused: S Sanders
- The changes in the Planning Commission motion have been incorporated in the attached amendment.
- The City Council considered the following:

  Findings of Fact:
  - Providence City Code (PCC) 10-1-5:A. states changes and amendments to this Zoning Title shall be done in accordance with state law.
  - UCA § 10-9a-501 states the legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in in this chapter.
  - UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing on a proposed land use ordinance or zoning map; and prepare and recommend to the legislative body a proposed land use ordinance and zoning map that represent the planning commission's recommendation.
  - UCA 10-9a-503.(1) The legislative body may amend: (b) any regulation of or within the zoning district; or (c) any other provision of a land use ordinance.

  Conclusions of Law:
  - The proposed amendment has been processed in accordance with the above

  Conditions:

- None

THEREFORE be it ordained by the Providence City Council:

- The attached code amendment shall be approved based on the findings of fact, conclusions of law, and conditions listed above and the recommendation of the Providence City Planning Commission.
- This ordinance shall become effective immediately upon passage and posting.

Ordinance adopted by vote of the Providence City Council this 14 day of July 2015.

Council Vote:

Bagley, Bill	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Baldwin, Jeff	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Call, Ralph	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Drew, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Russell, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent

Signed by Mayor Don W Calderwood this day of 2015.

Providence City

_____

Don W. Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder

10-8-5: **COMMERCIAL ZONED DISTRICTS; SITE DEVELOPMENT:** All site development and landscaping in the commercial zoned districts (C1) shall conform to the minimum regulations specified herein: (Zon. Ord., 5-8-1991; 1998 Code)

1. A. Landscaping:

1. Parking Spaces: Provisions shall be made to accommodate three hundred (300) square feet of landscaped area for every ten (10) parking spaces within the parking lot in any commercial district. The landscaped area shall consist of medians, islands, or area around the structures. A minimum of ten percent (10%) of the total lot is to be landscaped. The landscaped public area between the curb, gutter, and sidewalk is not used to meet the requirement. (Ord. 98-OM007, 3-24-1998)

2. Median Adjacent Parking Aisle: A landscaped median running the length of the adjacent parking aisle shall be provided for every two (2) contiguous double-loaded parking aisles.

3. Width: All planted medians shall be a minimum of ten feet (10') in width.

4. Buffering: All parking areas shall be visually buffered from main roadways with appropriate landscaping.

5. Building: A ten foot (10') wide minimum landscaped area shall be provided around the entire building, with the exception of where loading docks, ramps, etc., are located. Up to five feet (5') of said ten foot (10') minimum may be sidewalk. (Zon. Ord., 5-8-1991)

6. Trees: One tree (minimum 1¾ inch caliper, minimum 10 feet in height) shall be planted and maintained for each one thousand (1,000) square feet of landscaped area. Trees in portable planters shall not qualify to meet the tree requirements. (Ord. 98-OM007, 3-24-1998)

7. Yard, Setback Areas: All yards and setback areas not occupied by buildings or parking shall be landscaped as herein required. (Zon. Ord., 5-8-1991)

8. Public Right of Way: The area within the public right of way between the curb, gutter and sidewalk shall be landscaped. A minimum of one tree per thirty feet (30') frontage shall be planted and maintained. Trees must be a variety listed by the City as acceptable street trees, (minimum 1¾ inch caliper, minimum 10 feet in height). The tree requirement may be reduced or waived by the City for safety reasons. (Ord. 98-OM007, 3-24-1998)

B. Curb, Gutter and Sidewalk:

1. A curb shall be provided along all interior roadways to prevent vehicular intrusion.

2. Curb/gutter and sidewalk may be required along the entire frontage of the lot if deemed desirable by the City for drainage purposes and pedestrian access, etc.

C. Storage: No storage or equipment or materials shall be visible from any public right of way. Storage areas shall be screened appropriately and be within setback lines.

D. Docks, Service Areas: Wherever practical, loading docks and service areas shall be located so as not to be visible from any public right of way. Every reasonable effort shall be made to screen docks and service areas from any public right of way.

~~E. Installation; Performance Security: No requests for any building, structure or other improvements shall be approved until site and landscape plans satisfactory to the Land Use Authority have been submitted. Landscaping and site developments in accordance with the approved plans shall be installed within thirty (30) days following occupancy of the building. If said completion date is impossible due to adverse weather conditions, a mutually agreed upon completion date shall be determined by the City and the applicant, but in no case shall the completion date be more than one hundred fifty (150) days from the date of occupancy. The developer (or owner) shall hereby deposit a security of performance as specified in subsections 11-5-7B through C of the Subdivision Title as security to assure compliance with all landscaping and site requirements. If the developer or an agent of the developer fails to comply with the above installation and time requirements, the security of performance may be foreclosed upon by the City to cover costs of installing, repairing or replacing said landscaping and site developments.~~

~~F. Maintenance Responsibility: Maintenance of all landscaping shall be the sole responsibility of the landowner/developer. Failure to adequately maintain and protect said landscaping (as determined by the City) shall cause the landowner/developer to be guilty of a misdemeanor as detailed in Section 10-2-2 of this Title. (Zon. Ord., 5-8-1991)~~

10-8-5: **COMMERCIAL ZONED DISTRICTS; SITE DEVELOPMENT:** All site development and landscaping in the commercial zoned districts ~~(C1)~~ shall conform to the minimum regulations specified herein: (Zon. Ord., 5-8-1991; 1998 Code).

A. Site Plan Required. A site plan is an architectural plan, landscape architecture document, and a detailed engineering drawing of proposed improvements to a given lot. A site plan shows a building footprint, travelways, parking, drainage facilities, sanitary sewer lines, water lines, trails, lighting, and landscaping and garden elements. Commercial site plans must include:
   1. Show north arrow, scale, building location, property lines, setbacks, abutting rights-of-way, parking layout, ADA parking and ramps, entrances to site, curbs, water and sewer lines, fire hydrants, fire lanes, storm drain lines and appurtenances.
   2. Show all existing fire hydrants within 300 feet.
   3. Show parking/loading computations for proposed use.
   4. Show connectivity with adjacent parking lots and interior private roadways.
   5. Show landscaping computations for proposed use.
   6. Provide elevations with rendered elevations for all elevations. Include color renderings of design concept or intent, site elements, and building facades.
   7. Provide floor plans; include the proposed low floor elevation.
   8. Provide cross-sections of the site showing spatial relationships between all vertical elements (building, trees, berms, Light standards, etc.) as they relate to activities and use of streetscape, pedestrian, and parking areas.
   9. Provide lighting and signage plan for the entire site. Indicate how signs will be illuminated, their design and spatial relationship to other site amenities including buildings, and a graphic example of each type of sign. This does not take the place of a sign permit application.
   10. Provide storm water pollution prevention plan if the site disturbs an acre or more, or is part of a larger development.
   11. Provide cost estimates for site development, including but not limited to: landscaping, parking/loading areas, pedestrian areas.
   12. Summary data indicating the area of the site in the following classification: total area of the lot, total area and percentage of the site utilized by buildings, total area and percentage of the site in landscape area, total area and percentage of the site for parking areas (including the number of parking spaces).

B. Parking / Parking lots. Private parking lots within any development shall provide interior access to adjacent parking lots and interior private roadways. When new developments are being constructed adjacent to existing businesses the project shall join existing drives and parking lots at property lines. When new developments are proposed adjacent to undeveloped land or underdeveloped areas, the new developments shall construct connections which will allow joining of future roads or parking lots. All accesses between interior lots and roads shall be open to the public for customer parking and access.

INTERNAL NOTE: The following is being moved from 10-8-6 C.

1. Visitor, guest or customer drop-off zones and parking shall be provided near visitor or customer entrances into buildings and shall be separated from all-day employee parking.
2. Parking will not be permitted closer than 15 feet to the property line unless it is decided by the Land Use Authority to be in the best interest of the City to permit parking to be closer than 15 feet. (Ordinance Modification 019-99 07/27/99) A business that locates the parking in the rear of the building rather than the front will be allowed a front yard setback of 15 feet. The standard front yard setback will be used when a business locates the parking in the front of the building. When parking is allowed on the street adjacent to the building the standard front yard setback applies. (Ordinance Modification 009-2002 06/11/02)
3. Parking aisles shall not exceed forty (40) cars in a row. Total parking area shall be broken down into sections not to exceed one hundred (100) cars. Each section shall be separated by internal drives to improve traffic circulation.
4. All parking spaces must be designated properly by painter lines or other City-approved methods.
5. Minimum aisle dimensions (from face of curb to face of curb) shall be: 90° parking – 64 feet; 60° parking – 60 feet; 45° parking – 53 feet
6. One access shall be allowed per lot, as exists on the effective date hereof, or one access shall be allowed for each one hundred fifty feet (150') of frontage with a maximum of two (2) accesses per street frontage. Minimum distance between accesses shall be one hundred feet (100') and the minimum distance from the street intersection shall be one hundred feet (100'), except for service stations which are approved conditional uses where only two (2) accesses are allowed per lot with one frontage. A third access shall be allowed for the other street frontage on corner lots as long as it meets the frontage and distance requirements above. (OM 006-2005 02/08/05)
7. Handicap Parking: All private, public and City parking lots shall provide accessible handicap parking. Minimum design, sign and identification of handicap parking spaces shall be as specified in the Utah State Building Board Planning and Design Criteria to Prevent Architectural Barriers for the Aged and Physically Handicapped. (Zon. Ord., 5-8-1991)

C. Landscaping: All landscaped area shall be planted with live plant material and include a permanent automatic irrigation system. The owner, tenant and agent shall be jointly and individually responsible for the maintenance of all landscaping in good condition and free from refuse and debris so as to present a healthy, neat and orderly appearance. The landscaped public area between the curb, gutter, and sidewalk is not used to meet the landscape requirements. See Title 7 Chapter 1 Section 8 of this code for park strip requirements.

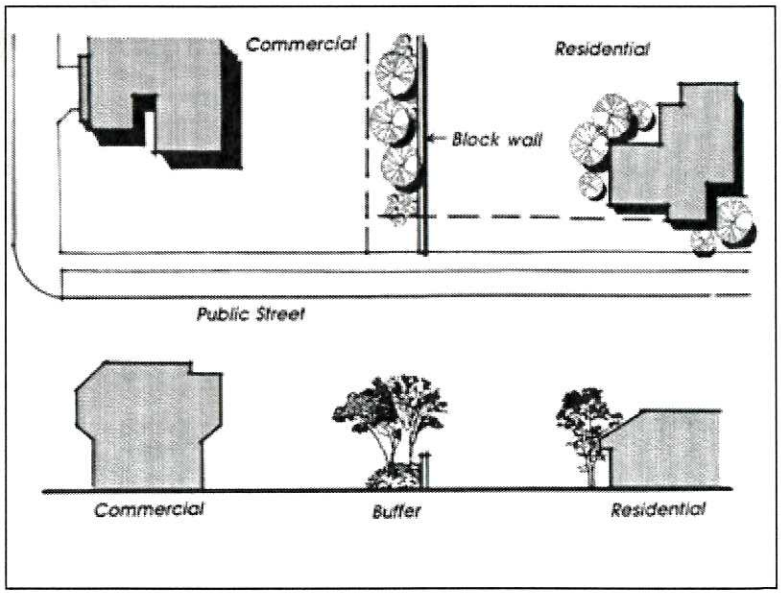
1. Design initiatives.
   a. To establish landscape themes that include street trees and streetscape designs throughout the City to promote and overall character and identity to the community.

b. Promote innovative and cost-conscious approaches to the design, installation, and maintenance of landscaping while encouraging water and energy conservation.
c. Promote planting techniques that ensure long term health of plant materials.
d. Screen unsightly building structures, equipment or materials from the view of persons on public streets or adjoining properties of incompatible land uses.

2. Definitions:
   a. Buffering: plants placed intermittently against long expanses of building walls, fences, and other barriers to create a softening effect.
   b. Landscaping: vegetative plantings such as grass, trees, shrubs, vines and related improvements such as pools, walkways, rockwork and sculpture which is of a design that will beautify and enhance a property, control erosion and reduce glare.
   c. Screening: masonry wall, fence, hedge, berm, or vegetative planning or combination thereof which is of a design (height, width, material, etc.) that will provide a visual and audible barrier between land uses having different intensities of use.
3. Large retail buildings (15,000 square feet and larger): shall require at least ten percent (10%) of the total lot be landscaped.
4. Retail buildings (detached - less than 15,000 square feet): shall require at least ten percent (10%) of the total lot be landscaped.
   a. A ten foot (10') wide minimum landscaped area shall be provided around the entire building, with the exception of where loading docks, ramps, etc. are located. Up to five feet (5') of said ten foot (10') minimum may be sidewalk. The Administrative Land Use Authority may provide for an exception to this requirement if soil types make it inadvisable to have irrigation near the building. In such case, the required amount of landscaping shall be provided elsewhere on the property.
5. Professional / Office buildings: shall require at least fifteen percent (15%) of the total lot be landscaped.
   a. A ten foot (10') wide minimum landscaped area shall be provided around the entire building, with the exception of where loading docks, ramps, etc. are located. Up to five feet (5') of said ten foot (10') minimum may be sidewalk. The Administrative Land Use Authority may provide for an exception to this requirement if soil types make it inadvisable to have irrigation near the building. In such case, the required amount of landscaping shall be provided elsewhere on the property.
6. Industrial / warehouse buildings: shall require at least ~~fifteen~~ ten percent (10%) of the total lot be landscaped.
   a. A ten foot (10') wide minimum landscaped area shall be provided around the entire building, with the exception of where loading docks, ramps, etc. are located. Up to five feet (5') of said ten foot (10') minimum may be sidewalk. The Administrative Land Use Authority may provide for an exception to this requirement if soil types make it inadvisable to have irrigation near the building. In such case, the required amount of landscaping shall be provided elsewhere on the property.
7. Parking Areas: Landscaping in parking area shall be designed to provide the following:
   a. Incorporate appropriate plantings that are in scale with their surroundings.
   b. Separate roadways, travel paths, pedestrian paths etc. using landscaped islands and /or planter strips.
      (1) Define area where pedestrians are safely separated from the travel path / roads.
      (2) Reinforce way-finding by emphasizing entrances and circulations patterns.
   c. Add aesthetic value, provide canopy shade, reduce radiant hear from the surface, reduce headlight glare, and add seasonal interest.

d. When possible, preserve mature trees and other significant landscape features which help define the character of the City.
e. When planted parking medians are used, they shall be a minimum of ~~10~~ 6 feet (~~10~~' 6') wide.
f. Planted islands shall be a minimum of twenty-five (25) square feet.

8. Xeriscape. Xeriscape is landscaping that reduces or eliminates the need for supplemental water from irrigation. It is different from natural landscaping, because the emphasis is on selection of plants for water conservation, not necessarily selecting native plants. Xeriscape landscaping can work well in Utah's desert climate. Xeriscape landscape is not zero-scape; it is an area filled with color, scent and variety. Trees can be used effectively in xeriscape and with proper~~ty~~ planning, planting, and care, they will thrive in low-water landscape.
9. Low Impact Development (LID). LID is a stormwater management approach with a basic principle that is modeled after nature: manage rainfall at the source using uniformly distributed decentralized micro-scale controls. LID's goal is to mimic a sites predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source. Developments are encouraged to implement LID's.
10. Trees. One tree (minimum two inch (2") caliper, minimum 10 feet in height) shall be planted and maintained for each one thousand (1,000) square feet of landscaped area. Trees in portable planters shall not qualify to meet the tree requirements.
    a. Trees within overhead utility easements shall be of a type that customarily grows to a height not exceeding fifteen feet.
11. Plants. The selection of plant materials should consider public health and safety. Plants to be avoided include those with poisonous fruits, large thorns, or invasive growth patterns. The ultimate form and height of plantings as they mature should be considered so they will not create unsafe conditions or block sight lines for pedestrians, bicyclists, or motorists.
    a. Planting beds may be mulched with bark chips, decorative stone, or similar materials. Mulch shall not be used as a substitute for plants.
12. Landscaped buffer. A landscaped buffer is defined as a landscaped area whereby trees and other plan materials are used to create a wide, landscaped park- or garden-like area around the perimeter, or in the side and/or rear yard, of a property in order to physically and visually separate and mitigate undesirable environmental impacts (such as: noise, dust, stormwater, etc.) between commercial zones and residential zones. Generally accepted scale for landscape buffers. The following minimum and maximum



width of transitional yards and screening should be used between commercial and residential uses:

a. Minimum width: 10 feet ~~to 15 feet~~
b. Maximum width: ~~25 feet to~~ 50 feet
c. Where commercial buildings are less than 5,000 square feet in area, a minimum 10 feet ~~to 25 feet~~ buffer is substantial. Otherwise if the building area is greater than 5,000 square feet in area, a landscape buffer should be ~~between~~ a minimum 25 feet ~~and 50 feet~~.

13. Planting materials in the landscape buffer.
    a. Choose plants that will naturally grow to the desired form or height to reduce maintenance. No limbing up (this will lessen the life and strength of the tree).
    b. Tree canopies should have a natural growth height of at least 8 feet from the ground when located around areas in the clear-view area (see Chapter 9 of this Title). Tree canopies should have a natural growth height of at least 4 feet from the ground when located around parking areas, walkways, etc.
    c. New trees and shrubs should be evenly spaced at planting, with trees having an 8-foot minimum installed height, and shrubs having a 36-inch minimum installed height.
    d. Landscaping in the landscape buffer should consist of a minimum of 6 large maturing trees (minimum 50% evergreen) and 40 medium shrubs (minimum 75% evergreen) for each 100 linear feet, to provide continuous coverage. For dimensions of less than 100 feet, plantings and spacing will be in proportion to the basic ratio.
14. Snow storage. Landscape materials surrounding parking lots and in islands and medians should be able to tolerate large quantities of snow stored during winter months. Delicate plant material should not be used in area where they are likely to be damaged by snow.
15. Lighting. The intent of lighting is to provide the necessary lighting to ensure pedestrian safety, night vision for pedestrians and automobiles, add aesthetic value to the city appearance, and not create or cause excessive glare onto adjacent properties.
    a. Lighting height and location shall be designed to illuminate the site only. Light cutoffs are required to prevent spillover of direct light.
    b. Pedestrian street lights or lampposts located within the public right-of-way are required in all commercial zones.
    c. Pedestrian street lights or lampposts located within the public right-of-way shall be mounted between 8' to 16' above grade to provide ~~continuous~~ illumination of ~~all~~ street sidewalks.
    d. Pedestrian street lights or lampposts shall reflect the architectural design characteristic of the surrounding area.
    e. ~~Exterior building lights affixed to building on street-front elevations shall be mounted between 6' to 14' above the adjacent grades~~.
    f. Up-lighting is not permitted, except as approved through the site plan review for highlighting signature landscape features or building elements.
    g. HID or fluorescent tube lights (except compact fluorescent bulbs) are not permitted as exterior building lights.
    h. Floodlights or directional lights permitted for the lighting of alleys, parking garages and outdoor working areas must be shielded or directed to prevent the source of light (bulb or lamp) from being seen from adjacent properties or public rights-of-way.
16. All landscape plans submitted for approval shall contain the following information unless specifically waived by the City. ~~The final landscaped plan shall be stamped by a Utah Licensed Architect and include a statement demonstrating how the design and~~

~~installation will conserve water~~. At the discretion of the City a final landscaped plan may require a stamp from a Utah Licensed Landscape Architect.

a. The location and dimensions of all existing and proposed structures, property lines easements, parking lots and drives, roadways and rights of way, sidewalks, bicycle paths, ground signs, bicycle parking areas, fences, freestanding electrical equipment, tot lots, and other recreation facilities.
b. The location, quantity, size and name, both botanical and common names, of all proposed plants.
c. The location, size and common names, of all existing plants including trees and other plants in the parkway, and indicating plants to be retained and removed.
d. The locations of existing buildings and structures ~~and plants~~ on adjacent property within twenty feet (20') of the site.
e. Location and heights of fences and retaining walls proposed on the site.
f. ~~Irrigation plan(s) must also be included and must be stamped by a Certified Irrigation Designer (CID), professional engineer (PE), Licensed Landscape Architect. Irrigation plans must demonstrate water conservation~~. At the discretion of the City a final irrigation plan may require a stamp from a Utah Licensed Landscape Architect.

17. Completion; Performance Security. No requests for any building, structure or other improvements shall be approved until site and landscape plans have been approved by the Administrative Land Use Authority.
    a. Landscaping and site developments in accordance with the approved plans shall be installed within thirty (30) days following occupancy of the building.
    b. If said completion date is impossible due to adverse weather conditions, a mutually agreed upon completion date shall be determined by the City and the applicant, but in no case shall the completion date be more than one hundred fifty (150) days from the date of occupancy. The developer (or owner) shall hereby deposit a security of performance as specified in subsections 11-5-7B through C of the Subdivision Title as security to assure compliance with all landscaping and site requirements. If the developer or an agent of the developer fails to comply with the above installation and time requirements, the security of performance may be foreclosed upon by the City to cover costs of installing, repairing or replacing said landscaping and site developments.

D. Undeveloped Area. All areas of the parcel on which development is taking place shall be regulated by this chapter. Land which is not covered by the building(s), parking lots, roads, landscaping or otherwise improved shall, as a minimum, be restored with natural vegetation and maintained so as not to create a weed nuisance (see Title 4 Chapter 2 of this Code), or the area may be maintained in agricultural production.

10-8-6: **PARKING REGULATIONS:** Except as herein provided, no building or structure shall be constructed, altered or converted for or to any use unless there shall be provided on the lot or parcel vehicle parking of at least the following ratio of vehicle spaces for the uses specified in the designated districts and that all roadways comply with the standards contained herein. The exception being that, an established use lawfully existing at the effective date hereof need not provide parking or roadways as herein set forth and that no existing vehicle parking or roadways be reduced or further reduced below the minimum standards herein required.

2. A. Schedule: In all districts, the following off-street parking schedule shall apply:

1. Dwelling Unit:

a. Two (2) spaces for each unit, except as provided in subsection A1b and A1c of this Section.

b. Dwelling unit occupied by four (4) or more individuals unrelated by blood, marriage or adoption; two (2) spaces per three (3) individuals, plus one additional space for each additional individual exceeding three (3) and up to and including five (5) individuals.

c. Multi unit residences for persons with disabilities and/or residential facility for the aged; when evidence presented by the applicant warrants, the Land Use Authority may allow a number less than two (2) space per dwelling unit; but not less than 1.5 spaces per dwelling unit to the City Council. (Ordinance Modification 002-02 03/26/02)

2. Clinic or Doctor's Office: Ten (10) spaces per clinic or four (4) spaces per doctor or dentist, plus three (3) additional spaces for each doctor or dentist over three (3).

3. Restaurant or Cafeteria: One space for each four (4) fixed seats and one space for each forty (40) square feet of floor area for moveable seating under maximum seating arrangement.

4. Office, General: One space for each two (2) employees working the shift with the greatest number of employees.

5. Commercial:

a. Recreation And Amusement: One space for each two hundred fifty (250) square feet in use.

b. Retail Or Personal Service: One space for each two hundred fifty (250) square feet in use.

6. Churches, Meeting Rooms, Public Assembly: One space for each five (5) fixed seats and one space for each fifty (50) square feet of floor area for moveable seating under maximum seating arrangement.

7. Storage or Warehouse: One space for each five thousand (5,000) square feet or floor area.

8. Manufacturing, Process or Repair: One space for each two (2) employees working the shift with the greatest number of employees.

3. B. General Requirements:

1. Buildings, Developments; Computation: In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements of all of the buildings, structures or uses in the development.

2. Single-Family Dwelling: Single-family dwelling unit (detached or attached) parking shall be provided only in a private garage, driveway, or in an area properly located for a future garage.

3. Plan Approval: Prior to the issuance of any building permit, a plan which clearly

and accurately designates parking spaces, access aisles, driveways and the relationship to the use to be served by the off-street parking shall be forwarded to the Land Use Authority for the process of City approval. Approval shall be based on:

a. Adequate number of spaces, including handicap spaces if required;

b. Relationship of parking to use;

c. All parking spaces being usable and accessible by adequate roadway/parking configuration; and

d. Parking stalls being nine feet in width by twenty feet in length (9' x 20') and on a hard paved surface (see subsection D of this Section for ~~handicap~~ parking requirements for individuals with disabilities.). Access to all stalls shall also be of a paved hard surface.

4. Location: Parking space as required above shall be on the same lot with the main building, or in the case of nonresidential buildings, it may be located no further than three hundred feet (300') therefrom. (Zon. Ord., 5-8-1991)

~~C. Commercial General (CGD) Zoned District:~~

~~1. Visitor, guest or customer drop-off zones and parking shall be provided near visitor or customer entrances into buildings and shall be separated from all-day employee parking.~~

~~2. Parking will not be permitted closer than 15 feet to the property line unless it is decided by the Land Use Authority to be in the best interest of the City to permit parking to be closer than 15 feet. (Ordinance Modification 019-99 07/27/99) A business that locates the parking in the rear of the building rather than the front will be allowed a front yard setback of 15 feet. The standard front yard setback will be used when a business locates the parking in the front of the building. When parking is allowed on the street adjacent to the building the standard front yard setback applies. (Ordinance Modification 009-2002 06/11/02)~~

~~3. Parking aisles shall not exceed forty (40) cars in a row. Total parking area shall be broken down into sections not to exceed one hundred (100) cars. Each section shall be separated by internal drives to improve traffic circulation.~~

~~4. All parking spaces must be designated properly by painter lines or other City-approved methods.~~

~~5. Minimum aisle dimensions (from face of curb to face of curb) shall be:~~

~~When 90º parking 64 feet~~
~~When 60º parking 60 feet~~
~~When 45º parking 53 feet~~

~~6. One access shall be allowed per lot, as exists on the effective date hereof, or one access shall be allowed for each one hundred fifty feet (150') of frontage with a maximum of two (2) accesses per street frontage. Minimum distance between accesses shall be one hundred feet (100') and the minimum distance from the street intersection shall be one hundred feet (100'), except for service stations which are approved conditional uses where only two (2) accesses are allowed per lot with one frontage. A third access shall be allowed for the other street frontage on corner lots as long as it meets the frontage and distance requirements above. (OM 006-2005 02/08/05)~~

~~7. Handicap Parking: All private, public and City parking lots shall provide accessible handicap parking. Minimum design, sign and identification of handicap parking spaces shall be as specified in the Utah State Building Board Planning and Design Criteria to Prevent Architectural Barriers for the Aged and Physically Handicapped. (Zon. Ord., 5-8-1991)~~

Resolution 027-2015

A RESOLUTION ESTABLISHING RESTRICTIONS ON THE USE OF FIREWORKS.

WHEREAS UCA § 10-7-717 Purpose of resolutions, states, "Unless otherwise required by law, the governing body may exercise all administrative powers by resolution . . ."

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses.

- Given the hot, dry conditions Providence City experiences during the month of July: the use, igniting, or displaying of fireworks of any type is prohibited in the following areas:
    - Any area within 300 feet of mountainous, brush covered, or forested areas.
    - Any area within 300 feet of any undeveloped wildland or land being used for agricultural purposes.

THEREFORE be it resolved by the Providence City Council:

- The above restrictions shall be established for the remainder of July 2015.
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 14 day of July, 2015.

Council Vote:				
Bagley, Bill	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Baldwin, Jeff	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Call, Ralph	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Drew, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Russell, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent

Providence City

_____

Don W Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder

Resolution 023-2015

A RESOLUTION APPROVING THE FRANCHISE AGREEMENT FOR COMCAST

WHEREAS UCA § 10-7-717 Purpose of resolutions, states, "Unless otherwise required by law, the governing body may exercise all administrative powers by resolution . . ."

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses.

WHEREAS the franchise agreement between Providence City, Utah and Comcast of Indiana/Kentucky/Utah Inc. is ready for renewal.

- The attached franchise agreement has been prepared by Comcast and reviewed by Jonathan Call, Providence City Attorney.

THEREFORE be it resolved by the Providence City Council:

- The attached franchise agreement between Providence City, Utah and Comcast of Indiana/Kentucky/Utah Inc. is hereby accepted.
- The Mayor and City Recorder are hereby authorized to execute the attached franchise agreement.
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 14 day of July, 2015.

Council Vote:				
Bagley, Bill	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Baldwin, Jeff	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Call, Ralph	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Drew, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Russell, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent

Providence City

_____

Don W Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder

FRANCHISE AGREEMENT BETWEEN PROVIDENCE CITY, UTAH AND COMCAST OF INDIANA/KENTUCKY/UTAH INC.

2015

This Franchise Agreement ("Franchise") is between Providence City, hereinafter referred to as the "Franchising Authority" and Comcast of Indiana/Kentucky/Utah Inc., hereinafter referred to as the "Grantee".

The Franchising Authority hereby acknowledges that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein.

SECTION 1

Definition of Terms

1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

A. "Affiliate" when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

B. "Basic Cable" is the lowest priced tier of Cable Service that includes the retransmission of local broadcast television signals.

C. "Cable Act" means Title VI of the Communications Act of 1934, as amended.

D. "Cable Services" shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

E. "Cable System" shall mean the Grantee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area.

F. "FCC" means Federal Communications Commission or successor governmental entity thereto.

G. "Franchise" means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System within the Franchise Area.

H. "Franchising Authority" means Providence City, within the State of Utah, or the lawful successor, transferee, or assignee thereof.

I. "Grantee" means Comcast of Indiana/Kentucky/Utah, Inc., or the lawful successor, transferee, or assignee thereof.

J "Gross Revenue" means any and all revenue in whatever form, from any source, directly received by the Grantee or Affiliate of the Grantee, according to generally accepted accounting principles consistently applied, that would constitute a Cable Operator of the Cable System under the Cable Act, derived from the operation of the Cable System to provide Cable Services in any manner that requires use of the Public Ways in the Service Area. Gross Revenues include, but are not limited to, basic, expanded basic, and pay service revenues, revenues from installation, rental of converters, the applicable percentage of the sale of local and regional advertising time, and any leased access revenues.

Gross Revenues do not include (i) revenue from sources excluded by law; (ii) revenue derived by Grantee from services provided to its Affiliates; (iii) late payment fees; (iv) charges other than those described above that are aggregated or bundled with amounts billed to Cable Service Subscribers such as charges for Broadband or Telephone services; (v) fees or taxes which are imposed directly on any Subscriber by any governmental unit or agency, and which are collected by the Grantee on behalf of a governmental unit or agency including the FCC User Fee; (vi) revenue which cannot be collected by the Grantee and are identified as bad debt, provided, that if revenue previously representing bad debt is collected, this revenue shall then at time of collection be included in Gross Revenues for the collection period; (vii) refundable deposits, investment income, programming launch support payments, or advertising sales commissions; and (viii) Internet services to the extent that such service is not considered to be a Cable Service as defined by law.

K. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity but not the Franchising Authority.

L. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or

public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing and operating the Grantee's Cable System over wires, cables, conductors, ducts, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

M. "Service Area" means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 3.9.

N. "Standard Installation" is defined as 125 feet from the nearest tap to the Subscriber's terminal.

O. "Subscriber" means a Person who lawfully receives Cable Service of the Cable System with the Grantee's express permission.

SECTION 2

Grant of Franchise

2.1 Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System.

2.2 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control, provided however that the Grantee agrees that it is subject to the lawful exercise of the police power of the Franchising Authority.

Each and every term, provision or condition herein is subject to the provisions of State law, federal law, and County ordinances and regulations enacted pursuant thereto. Notwithstanding the foregoing, the Franchising Authority may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

2.3 Competitive Equity.

(A) Overview.

The Grantee and the Franchising Authority acknowledge that there is increasing competition

in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers and others; new technologies are emerging that enable the provision of new and advanced services to residents of the Franchising Authority; and changes in the scope and application of the traditional regulatory framework governing the provision of video series are being considered in a variety of federal, state and local venues. To foster an environment where video service providers using the public rights-of-way can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to the residents; promote local communications infrastructure investments and economic opportunities in the Franchising Authority; and provide flexibility in the event of subsequent changes in the law, the Grantee and the Franchising Authority have agreed to the provisions in this Section, and they should be interpreted and applied with such purposes in mind. Furthermore, if the Franchising Authority authorizes or permits a competitor to Grantee to operate within the Franchise Area, it shall do so on condition that such competitor or entity indemnify and hold harmless the Grantee for and against all costs and expenses incurred in strengthening poles, replacing poles, rearranging attachments, placing underground facilities, conducting inspections and generally in creating infrastructure improvements for the other entity.

(B) New Video Service Provider

Notwithstanding any other provision in this Agreement or any other provision of law, if any Video Service Provider ("VSP") (i) enters into any agreement with the Franchising Authority to provide video services to subscribers in the Franchising Authority, or (ii) otherwise begins to provide video services to subscribers in the Franchising Authority (with or without entering into an agreement with the Franchising Authority), the Franchising Authority, upon written request of the Grantee, shall permit the Grantee to construct and operate its Cable System and to provide video services to subscribers in the Franchising Authority under the same agreement and/or under the same terms and conditions as apply to the new VSP. The Grantee and the Franchising Authority shall enter into an agreement or other appropriate authorization (if necessary) containing the same terms and conditions as are applicable to the VSP within sixty (60) days after the Grantee submits a written request to the Franchising Authority.

(C) No Written Agreement between Franchising Authority and Third Party VSP

If there is no written agreement or other authorization between the new VSP and the Franchising Authority, the Grantee and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (if necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Grantee and other VSP's, taking into account the terms and conditions under which other VSP's are allowed to provide video services to subscribers within the boundaries of the Franchising Authority.

(D) Effect of this Section on the Overall Agreement

Any agreement, authorization, right or determination to provide video services to subscribers in the Franchising Authority under any provision under this Section 2.3 shall supersede this Agreement, and the Grantee, at its option, may terminate this Agreement or

portions thereof, upon written notice to the Franchising Authority, without penalty or damages.

(E) VSP Defined

The term "Video Service Provider" or "VSP" shall mean any entity using the public rights-of-way to provide multiple video programming services to subscribers, for purchase at no cost, regardless of the transmission method, facilities, or technology used. A VSP shall include but is not limited to any entity that provides cable services, multichannel multipoint distribution services, broadcast satellite services, satellite-delivered services, wireless services, and Internet Protocol based services.

2.4 Term. The Franchise granted hereunder shall be for an initial term of Fifteen (15) years commencing on the effective date of the Franchise as set forth in subsection 8.6, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

SECTION 3

Standards of Service

3.1 Conditions of Occupancy. The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

3.2 Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way at Grantee's expense to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

3.3 Relocation for the Franchising Authority. Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee shall at its own expense protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, power lines or other municipal utility infrastructure, or any other type of public structures or improvements which are not used to compete with the Grantee's services.

In the event of an emergency, the Franchising Authority shall notify the Grantee, who shall immediately respond to the emergency. Should the Grantee be unable to respond in a timely manner, the Franchising Authority shall take such action as is necessary to meet the emergency.

The Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any person using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, then the Franchising Authority shall make application for such funds on behalf of the Grantee.

3.4 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

3.5 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in the public way in order to access and maintain the Cable System.

3.6 Safety Requirements. Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code. The Cable System shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

3.7 Aerial and Underground Construction. Prior to construction, in each case, all applicable permits shall be applied for and granted and all fees shall be paid.

In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality.

In any region(s) of the Franchise Area where the transmission of distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Section shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals or other related equipment.

3.8 Access to Open Trenches. The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any utility or developer that (A) the utility or developer give the Grantee at least ten (10) days advance written notice of the

availability of the open trench, and (B) that the utility or developer provide the Grantee with reasonable access to the open trench.

3.9 Required Extensions of the Cable System. Nothing in this Agreement requires Grantee to build to all areas of the Franchise Authority. Grantee retains the discretion to determine the scope, location, and timing of the design and construction of its network, as well as the windows during which residential Subscribers may enroll for services, so long as such decisions are consistent with this Section. Grantee, at its sole discretion, may determine separately defined geographic areas within the Franchise Area where its System will be deployed, services will be offered, or facilities will be upgraded.

3.10 Subscriber Charges for Extensions of the Cable System. The Grantee may, at Grantee's discretion, extend the Cable System to Subscriber(s) in the Service Area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, in the event Grantee decides to extend the Cable System, the Grantee will contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of unserved residences per 1320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals 15. Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any non-Standard Installation charges to extend the Cable System from the tap to the residence.

3.11 Cable Service to Public Buildings. The Grantee, upon request, shall provide without charge, a Standard Installation and one outlet of Basic Cable to those administrative buildings owned and occupied by the Franchising Authority, fire station(s), police station(s), and K-12 public school(s) that are passed by its Cable System. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in any loss or damage to the Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this subsection. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

3.12 Technical Standards. The Grantee is responsible for ensuring that the Cable System is designed, installed and operated in a manner that fully complies with FCC rules in Subpart K of Part 76 of Chapter I of Title 47 of the Code of Federal Regulations as revised or amended from time to time. As provided in these rules, the Franchising Authority shall have, upon request, the right to obtain a copy of tests and records required in accordance with appropriate rules but has no authority, pursuant to federal law, to enforce compliance with such standards.

3.13 Emergency Use.

A. In accordance with and at the time required by the provisions of FCC Regulations Part 11, Subpart D, Section 11.51, and as other provisions which may from time to time be amended, the Grantee shall install, if it has not already done so, and maintain an Emergency Alert System (EAS) for use in transmitting Emergency Act Notifications (EAN) and Emergency Act Terminations (EAT) in local and state-wide situations as may be designated to be an emergency by the Local Primary (LP), the State Primary (SP) and/or the State Emergency Operations Center (SEOC), as those authorities are identified and defined within FCC Regulations, Section 11.18.

B. The Franchising Authority shall permit only appropriately trained and authorized persons to operate the EAS equipment and take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use, or any loss or damage to the Cable System. Except to the extent expressly prohibited by law, the Franchising Authority agrees to hold the Grantee, its employees, officers and assigns harmless from any claims arising out of the emergency use of its facilities by the Franchising Authority, including, but not limited to, reasonable attorneys' fees and costs.

3.14 Reimbursement of Costs. If funds are available to any Person using the Public Way for the purpose of defraying the cost of any act contemplated in this Agreement, the Franchising Authority shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Grantee.

3.15 Customer Service Standards. The Franchising Authority hereby adopts the customer service standards set forth in Part 76, § 76.309 of the FCC's rules and regulations, as amended. The Grantee shall comply in all respects with the customer service requirements established by the FCC.

3.16 Fees and Charges to Customers All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations. Before any new or modified rate, fee, or charge is imposed, the Grantee shall follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law.

3.17 Customer Bills and Privacy Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (A) is not misleading and (B) does not omit material information. Notwithstanding anything to the contrary in Section 3.15 above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(C) of the Cable Act (47 U.S.C. 542(c)). The Grantee shall also comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 4

Regulation by the Franchising Authority

4.1 Franchise Fee.

A. The Grantee shall pay to the Franchising Authority a franchise fee equal to five percent (5 %) of annual Gross Revenue (as defined in subsection 1.1 of this Franchise) received by the Grantee from operation of the Cable System to provide Cable Service in the Franchise Area; provided however, that Grantee shall not be compelled to pay any higher percentage of franchise fees than any other video service provider providing servicer in the Franchise Area. In accordance with the Cable Act, the twelve (12) month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. Payments shall be made by Grantee to the Franchising Authority on a quarterly basis, within sixty (60) days after the close of the preceding calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

4.2 Rates and Charges. The Franchising Authority may regulate rates for the provision of Basic Cable and equipment as expressly permitted by federal or state law.

4.3 Renewal of Franchise.

A. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act.

B. In addition to the procedures set forth in said Section 626(a), the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current Franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section 626(b) of the Cable Act and complete renewal of the Franchise prior to expiration of its term.

C. Notwithstanding anything to the contrary set forth in this subsection 4.3, the Grantee and the Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof.

D. The Grantee and the Franchising Authority consider the terms set forth in this subsection 4.3 to be consistent with the express provisions of Section 626 of the Cable Act.

4.4 Conditions of Sale. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given at least twelve (12) months to effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during the twelve (12) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

4.5 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed given.

SECTION 5

Oversight and Regulation by Franchising Authority

5.1 Books and Records The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee, may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the Section of the Franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's

representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing Cable Service in the Service Area. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

5.2 Franchise Fees Subject to Audit.

5.2.1. Upon reasonable prior written notice, during normal business hours at Grantee's principal business office, the Franchising Authority shall have the right to inspect the Grantee's financial records used to calculate the Franchising Authority's franchise fees; provided, however, that any such inspection shall take place within two (2) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.

5.2.2. Upon the completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final report setting forth the Franchising Authority's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Finally Settled Amount." For purposes of this Section, the term "Finally Settled Amount(s)" shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

5.2.3. Any "Finally Settled Amount(s)" due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Grantee within thirty (30) days from the date the parties agree upon the "Finally Settled Amount." Once the parties agree upon a Finally Settled Amount and such amount is paid by the Grantee, the Franchising Authority shall have no further rights to audit or challenge the payment for that period. The Franchising Authority shall bear the expense of its audit of the Grantee's books and records.

SECTION 6

Insurance and Indemnification

6.1 Insurance Requirements. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of one million dollars ($1,000,000) combined single limit for bodily injury and property damage. The Franchising Authority shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. Upon commencement of this Franchise Agreement, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its elected officials, officers, employees, agents and volunteers from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority to the extent of any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

6.3 Bonds and Other Surety Except as expressly provided herein, the Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. The Franchising Authority acknowledges that the legal, financial, and technical qualifications of the Grantee are sufficient for compliance with the terms of the Franchise and the enforcement thereof. The Grantee and the Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for services. In order to minimize such costs, the Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefore. The Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than $10,000, conditioned upon the substantial performance of the material terms, covenants, and conditions of the Franchise. Initially, no bond or other surety will be required. In the event that a bond or other surety is required in the future, the Franchising Authority agrees to give the Grantee at least 60 days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in Grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith.

SECTION 7

Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the

Franchising Authority shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

7.2 The Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in subsection 7.1: (A) to respond to the Franchising Authority, contesting the assertion of noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 7.1 pursuant to the procedures set forth in subsection 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in subsection 7.3, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or

B. Commence an action at law for monetary damages or seek other equitable relief; or

C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise in accordance with subsection 7.5.

7.5 Revocation. Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in subsections 7.1-7.4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the Franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority *de novo*. Such appeal to the

appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

7.6 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

SECTION 8

Miscellaneous Provisions

8.1 Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

8.3 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the Franchising Authority shall be addressed as follows:

Providence City
Attn: Mayor
15 S. Main.
Providence, Utah 84332

The notices or responses to the Grantee shall be addressed as follows:

Comcast Cable Communications

Attn: Government Affairs
9602 South 300 West
Sandy UT 84070

with a copy to:

Comcast Corporation
Legal Department
1701 John F Kennedy Blvd.
Philadelphia PA 19103

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

8.4 Descriptive Headings. The captions to Sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.5 Severability. If any Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.6 Effective Date. The effective date of this Franchise is the _____ day of July, 2015 pursuant to the provisions of applicable law. This Franchise shall expire on the _____ day of July of 2030 unless extended by the mutual agreement of the parties.

IN WITNESS WHEREOF, the City has entered into this Franchise Agreement on the date first considered above.

Providence City

Signature: _____
Don W Calderwood, Mayor

ATTEST:

_____
Skarlet Bankhead
City Recorder

Accepted this ____ day of July, 2015, subject to applicable federal, state and local law

Comcast of Indiana/Kentucky/Utah, Inc.

Signature: _____

By:_____

Title:_____

Resolution 025-2015

A RESOLUTION APPROVING THE FEE FOR NOT SUFFICIENT FUND RETURNS.

WHEREAS UCA § 10-7-717 Purpose of resolutions, states, "Unless otherwise required by law, the governing body may exercise all administrative powers by resolution . . ."

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses.

WHEREAS Providence City Treasurer request the City Council increase the service fee for Not Sufficient Fund returns.

- The current service fee charged by the City is $15
- UCA § 7-15-1 states an issuer of a check is liable for the check amount and a service charge of $20. If the issuer does not pay the check amount and a service charge of $20 within 15 calendar days from the day on which notice is mailed the issuer is liable for the check amount and a service charge of $20, and collection costs not to exceed $20.

THEREFORE be it resolved by the Providence City Council:

- The service fee charged by the City shall be increased to $20; and
- If necessary, the City may also collect collection costs not to exceed $20.
- This does not waive the right of the City to charge additional expenses allowed by law, if the issuer does not pay the amounts owned.
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 14 day of July, 2015.

Council Vote:				
Bagley, Bill	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Baldwin, Jeff	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Call, Ralph	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Drew, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Russell, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent

Providence City

_____

Don W Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder

Resolution 021-2015

A RESOLUTION AMENDING THE PROVIDENCE CITY PERSONNEL POLICY SECTION 9 RETIREMENT, BY CLASSIFYING APPOINTED OFFICIALS AS FULL-TIME.

WHEREAS UCA § 10-7-717 Purpose of resolutions, states, "Unless otherwise required by law, the governing body may exercise all administrative powers by resolution . . ."

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses.

- Providence City must establish a designation for elected officials for Utah Retirement System compliance.
- The following amendment to the Providence City Personnel Policy Section 9 Retirement is proposed:

Section 9. Retirement Policy

A. Policy

1. Providence City will follow the Utah State Retirement Policy. There is no mandatory retirement provided the employee continues to meet the current standards of the position.
2. Employees of Providence City may elect to retire prior to their 65th birthday at their own discretion. The City has no role in determining what benefits are to be paid or when an employee is eligible for benefits, as these are entirely governed by the rules, regulations, policies and statutes related to the Utah State Retirement System.
3. All Providence City employees are covered by social security. This benefit is separate from the state retirement system.
4. All full time employees of Providence City are covered by the Utah state retirement system.
5. For the purposes of Utah Retirement Systems (URS) coverage, the City classifies all elected officials as part-time. Eligibility for retirement coverage under Utah Retirement Systems shall be administered in accordance with the statutory rules governing Utah Retirement systems.
6. For the purposes of Utah Retirement Systems (URS) coverage, the City classifies the following appointed officials as full-time: City Recorder, City Treasurer, Public Works Director, and City Administrator. Currently, Providence City does not compensate appointed members on the following boards and/or commissions: Appeal Authority, Historic Preservation Commission, and Planning Commission. However, for the purposes of Utah Retirement Systems (URS) coverage, if the City does compensate the appointed officials on the following board and/or commissions: Appeal Authority, Historic Preservation Commission, and Planning Commission, they will be classified as part-time. Eligibility for retirement coverage under Utah Retirement Systems shall be administered in accordance with the statutory rules governing Utah Retirement systems.

THEREFORE be it resolved by the Providence City Council:

- The above amendment to the Providence City Personnel Policy Section 9 Retirement shall be approved.

- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 14 day of July, 2015.

Council Vote:

Bagley, Bill	() Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
Baldwin, Jeff	() Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
Call, Ralph	() Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
Drew, John	() Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
Russell, John	() Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent

Providence City

_____

Don W Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder

Resolution 026-2015

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH THE CITIES OF LOGAN, NIBLEY, PROVIDENCE, RIVER HEIGHTS, NORTH LOGAN, HYDE PARK, AND SMITHFIELD CREATING REGIONAL WASTEWATER TREATMENT RATE COMMITTEE.

WHEREAS UCA § 10-7-717 Purpose of resolutions, states, "Unless otherwise required by law, the governing body may exercise all administrative powers by resolution . . ."

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses.

WHEREAS Providence City currently contracts with Logan City for wastewater treatment services and desires to have some input in the rates established for wastewater treatment.

- The attached Interlocal Agreement has been prepared by Logan City.
- Mayors from the seven cities involved in the agreement approved the attached Interlocal Agreement for presentation to the State of Utah Water Quality Board.

THEREFORE be it resolved by the Providence City Council:

- The attached Interlocal Agreement creating a regional wastewater treatment rate committee shall be approved.
- Approval of this Interlocal Agreement does not prevent Providence City from pursuing alternatives for wastewater treatment.
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 14 day of July, 2015.

Council Vote:				
Bagley, Bill	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Baldwin, Jeff	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Call, Ralph	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Drew, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Russell, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent

Providence City

_____

Don W Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder

6/17/15 12:15pm Final approved agreement

INTERLOCAL AGREEMENT
CREATING REGIONAL
WASTEWATER TREATMENT RATE COMMITTEE

THIS INTERLOCAL AGREEMENT CREATING REGIONAL WASTEWATER TREATMENT RATE COMMITTEE (this "Agreement") is made and entered into as of this ____ day of _____, 2015, by, between and among the following governmental entities located in Cache County, State of Utah

THE CITY OF LOGAN, a municipal corporation of the State of Utah (hereinafter referred to as "LOGAN"),

THE CITY OF SMITHFIELD, a municipal corporation of the State of Utah (hereinafter referred to as "SMITHFIELD"),

THE CITY OF HYDE PARK, a municipal corporation of the State of Utah (hereinafter referred to as "HYDE PARK"),

THE CITY OF NORTH LOGAN, a municipal corporation of the State of Utah (hereinafter referred to as "NORTH LOGAN"),

THE CITY OF RIVER HEIGHTS, a municipal corporation of the State of Utah (hereinafter referred to as "RIVER HEIGHTS"),

THE CITY OF PROVIDENCE, a municipal corporation of the State of Utah (hereinafter referred to as "PROVIDENCE"), and

THE CITY OF NIBLEY, a municipal corporation of the State of Utah (hereinafter referred to as "NIBLEY").

The above listed entities are sometimes jointly referred to in this Agreement as "Parties," and individually as a "Party." SMITHFIELD, HYDE PARK, NORTH LOGAN, RIVER HEIGHTS, PROVIDENCE and NIBLEY are sometimes jointly referred to in this Agreement as the "Contributing Parties" and individually as a "Contributing Party."

RECITALS:

A. In the past, LOGAN has owned and operated a wastewater lagoon and treatment facility (the "Existing Facility") and has accepted wastewater from the Contributing Parties for treatment at the Existing Facility.

B. LOGAN anticipates that it will construct a new mechanical wastewater treatment facility (the "Treatment Facility") that will be owned and operated by LOGAN.

C. If LOGAN constructs the Treatment Facility, it anticipates that it will continue to accept wastewater from the Contributing Parties for treatment at the Treatment Facility.

D. The Parties understand that, consistent with the provisions of this Agreement, LOGAN will have the power and authority to impose User Charges upon the Contributing Parties that deliver wastewater to the Treatment Facility so as to cover their proportionate shares of the Operating Expenses of the Treatment Facility and also a Transfer Fee.

E. The Parties desire to create a committee, with representation from each of the Parties, which will have authority to establish rates, within the parameters set forth in this Agreement, for the wastewater treatment services provided by LOGAN.

G. The Parties agree that this Agreement is entered into pursuant to the authority granted by the Utah Interlocal Cooperative Act, as set forth in Chapter 13, Title 11, Utah Code Annotated (1953, as amended).

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth in this Agreement, the Parties hereby agree as follows:

1. **Construction of Treatment Facility**. The Parties acknowledge that it is the present intention of LOGAN to construct the Treatment Facility estimated to be an 18 MGD facility, but actual size will be determined by the number of Contributing Parties who participate. It is understood and agreed that LOGAN may design the Treatment Facility with an operational capacity that is sufficient, in the reasonable judgment of LOGAN, to service the current and reasonably expected future treatment needs of the Parties. However, nothing in this Agreement shall be deemed to create an obligation of LOGAN to construct the Treatment Facility, and no Party shall have the right or power to compel LOGAN to construct the Treatment Facility.

2. **Term of Agreement**. The term of this Agreement shall commence as of the effective date of this Agreement, as set forth in the first paragraph of this Agreement, and shall continue for ~~the duration of the bonds referred to in Section 5(b)~~ 30 years. It is the express intent of LOGAN to continue to provide effective and cost-efficient treatment of wastewater for the Contributing Parties for the useful life of the Treatment Facility. Therefore, this agreement may be extended in five year increments by mutual consent of the Parties.

COMMENT: Note that Section 4 assures that the contributing parties will continue to receive service on a first-come, first-serve basis.

3. **Ownership of Wastewater Collection and Treatment Facilities**. The Parties agree as follows with respect to the ownership of the Treatment Facility and the wastewater collection systems of the Parties:

(a) LOGAN shall be the sole owner and operator of the Treatment Facility, and shall have the sole power and authority to operate and maintain the Treatment

Facility. This power and authority shall include, but not be limited to, the power and authority to hire managers, operators, mechanics, laboratory technicians and such other personnel as LOGAN deems necessary and appropriate for the operation and maintenance of the Treatment Facility. Nothing in this Agreement shall be deemed to give any of the Contributing Parties any ownership interest in the Treatment Facility or any right to operate or maintain the Treatment Facility.

(b) LOGAN shall be the sole owner and operator of its own wastewater collection and transmission facilities, and LOGAN shall be solely responsible for the operation, maintenance, and repair of its own wastewater collection and transmission facilities, and for the Operating expenses associated with these facilities.

(c) Each Contributing Party shall be the sole owner and operator of its own wastewater collection and transmission facilities up to the point where the Contributing Party's collection and transmission facilities connect with LOGAN's wastewater system. These points of connection are more particularly shown on Exhibit "A" attached hereto and incorporated herein by reference. Each Contributing Party shall be solely responsible for the operation, maintenance and repair of its own wastewater collection and transmission facilities and for the collection related operating costs of delivering its wastewater. These may include shared costs between Contributing Parties and LOGAN that may vary for each facility (collection and transfer facilities such as lift stations and trunk lines).

(1) Each Party agrees that it will construct, maintain and operate its wastewater collection and transmission facilities in a manner that will comply with all applicable Federal and State rules and regulations, and that it will use and exercise due diligence in preventing surface and sub-surface water from entering into its collection and transmission facilities.

(2) If it is determined that a Contributing Party is responsible for a violation of LOGAN's operating permit relating to the Treatment Facility, that Contributing Party shall be responsible for the payment of any fees, penalties and remediation expenses incurred by LOGAN with respect to that violation.

(d) Nothing in this Agreement shall preclude a Contributing Party from entering into a separate agreement with LOGAN with respect to the construction, maintenance and operation of a facility that is a part of that Contributing Party's own collection and transmission facilities, including lift stations. However, no part of the cost of the construction or operation of those facilities shall be included in the costs of operation and maintenance of the Treatment Facility that is shared by the Parties pursuant to this Agreement.

4. **Obligation to Accept and Treat Wastewater**. As long as a Contributing Party is in compliance with the provisions of this Agreement and the Contributing Party's specific Sewer Treatment Agreement with Logan, LOGAN shall accept and treat at the Treatment Facility all of the wastewater delivered to the Treatment Facility by that Contributing Party. Treatment of wastewater at the

Treatment Facility shall be on a first come, first served basis among the Parties to this Agreement, up to, but collectively not exceeding the treatment capacity of the Treatment Facility.

5. **User Charges.** The Parties recognize and agree that, as sole owner and operator of the Treatment Facility and the issuer of the bonds described in this Section of this Agreement, LOGAN is legally obligated to pay, from revenues, the Operating Expenses relating to the Treatment Facility. The Parties agree that LOGAN has the right to impose User Charges. To ensure that User Charges are equitable, the fee charged to each Contributing Party in dollars per 1,000 gallons of treated wastewater shall be the same as the per 1,000 gallon fee charged by LOGAN for its estimated flow. The revenue paid into the Wastewater Treatment fund from LOGAN shall be the amount collected from its residential and commercial users based on the estimated per 1,000 gallon rate, while the amount collected from each Contributing Party shall be its measured flow in 1,000 gallons multiplied by the same rate. The Parties agree that the system has inflow and infiltration problems and the Rate Setting Committee may direct the consultant to develop alternative rate/flow schemes to better reflect the estimated inflow and infiltration.

~~COMMENT: Wording developed by Issa Hamud, Mark Nielsen, Jim Gass and Jeff Jorgensen on 6/16/1~~6.

The User Charges shall include Operations and Maintenance Expenses, bond debt service, Administration Expenses, and a Transfer Fee in connection with the treatment of wastewater at the Wastewater Facility as follows (Except that capital expenses shall not be duplicated through depreciation and again through debt service):

(a) Operations and Maintenance Expenses. The Operations and Maintenance Expenses of the Treatment Facility shall include the following elements:

(1) The actual costs of the operation and maintenance of the Treatment Facility, including, but not limited to, costs of maintenance and repair of equipment used in connection with the operation and permit compliance of the Treatment Facility, salaries and wages, health, hospitalization, pension and retirement expenses of employees of the Treatment Facility, fees for services, materials and supplies, rents, insurance expenses, fees and expenses paid for permits, legal, engineering, accounting and financial advisory services and other consulting and technical services, training of personnel, taxes, and other governmental charges imposed by any entity other than LOGAN, fuel costs, payments for the purchase of water for use in connection with the operation of the Treatment Facility, costs of utility services and other auxiliary services, and any other current expenses or obligations required to be paid by LOGAN in connection with the operation and maintenance of the Treatment Facility for treatment of the wastewater load, including I/I.

(2) The costs of repair and replacement of equipment and facilities at the Treatment Facility and the funding of reserves.

(3) Funding future capital replacement/improvement project reserves.

(4) The costs of closing and remediating the existing sewer lagoons as required by the applicable Federal, state, and/or county regulations. Costs associated with renovation of the sewer lagoons for other uses shall not be included.

(5) Other costs of transitioning from the lagoons to the new facility.

(b) Bond Debt Service. The Bond Debt Service shall mean and include the amounts payable by LOGAN with respect to the following revenue bonds.

(1) Debt Service coverage requirements, debt service reserve fund deposits, and other amounts payable by LOGAN with respect to $3,355,000 in Revenue Bonds (as of 6/30/15) that have been issued by LOGAN and which relate to LOGAN's existing treatment facilities.

(2) Debt service payments, debt service reserve fund deposits, coverage requirements, and other amounts payable by LOGAN with respect to the revenue bonds that will be issued by LOGAN to provide funds with which to construct the Treatment Facility.

(c) Administrative Expenses. The Administrative expense shall be a reasonable allocation of costs incurred by LOGAN to support the operation of the Treatment Facility. The method of allocation shall be based on established accounting procedures and shall be the same as that used for other LOGAN departments.

(d) Transfer Fees. A Transfer Fee (calculated at 5.5% of estimated revenue) will be transferred from the Wastewater Enterprise Fund into the General Fund in accordance with Utah Law. The Transfer Fee is intended to compensate Logan City for the intangible risk and opportunity cost of providing wastewater treatment service to the contributing parties.

6. **Creation of Rate Committee**. There is hereby created a committee to be known as the "Regional Wastewater Treatment Rate Committee." Said committee is referred to in this Agreement as the "Rate Committee." The Rate Committee is formed by this Agreement pursuant to the provisions of Utah Code Annotated §11-13-101 et seq.

7. **Authority and Action of Rate Committee**. The rate committee shall meet at least once each year, but as often as needed to accomplish its purpose. The Committee shall:

(a) Confirm the votes allocated to the Members of the Rate Committee for that annual meeting pursuant to the procedure described in Section 11 of this Agreement.

(b) Yearly, elect the chair and other officers of the Rate Committee pursuant to Section 8(c) of this Agreement.

(c) Establish or modify bylaws as specified in Section 10 of this Agreement.

(d) Review the annual report prepared by LOGAN pursuant to Section 14 of this Agreement.

(e) Review LOGAN's explanation and accounting of Administration Expenses.

(f) As deemed necessary, select consultants to support User Rate analyses.

(g) Subject to the provisions of Section 5 of this Agreement the Rate Committee shall establish or reaffirm the Fiscal Year User Rate that will serve as the basis for monthly wastewater treatment bills charged to the Parties. The User Rate shall represent the unit cost of wastewater treatment by the Treatment Facility. User Charges will be calculated from the User Rate and the monthly Wastewater Loads of the Parties in order to ensure that each entity will pay its equitable share of wastewater treatment costs.

(h) At the request of a majority of the Contributing Parties, rates adopted by the Rate Committee shall be reviewed by an independent consultant selected by the board, as set forth in Section 11d, below. If the reviewer determines that the rates are not fair and equitable, the rates shall be revised to be fair and equitable prior to being imposed.

(i) Recommend the annual wastewater treatment operations budget to the Logan City Mayor.

(j) Take such actions as are necessary or expedient to carry out the intention of this Agreement. However, the Rate Committee shall have no powers other than those granted to it under this Agreement.

8. **Committee Membership**. Each Party shall have the power to appoint one member of the Rate Committee for so long as it is delivering wastewater to the Treatment Facility. Each such member is referred to as a "Member" of the Rate Committee.

(a) The Member representing a Party shall be designated and appointed by the duly constituted governing body of that Party. Such Member shall serve at the pleasure of the governing body of that Party, and each Party shall have the right to remove and replace the representative Member of that Party at any time. Initial appointments shall be made within thirty (30) days of the date of this Agreement, and each Party shall give written notice to the other Parties of the identity of the representative Member of that Party.

(b) In the event of the removal and/or resignation, death or incapacity of any Member, the governing body of the Party who appointed that Member shall designate and appoint a new representative Member for that Party to fill the vacancy, and shall give written notice to the other Parties of the identity of the replacement Member who represents the Party on the Rate Committee. All Members shall continue to serve until their respective successors are appointed.

(c) The Rate Committee shall select a chair, a vice-chair and other officers from among the Members, who shall serve until their successors are duly selected by the Members. The Chair and Vice Chair of the Committee shall rotate on an annual basis between LOGAN and the Contributing Parties. The Director of LOGAN's Environmental Department shall serve as the Secretary and as a technical advisor to the Rate Committee. The Secretary shall not have any votes with respect to actions taken or approved by the Rate Committee unless the Secretary is designated by LOGAN as its representative Member on the Rate Committee. The Secretary shall keep minutes of each regular and special meeting of the Rate committee and shall supply to each Member of the Rate Committee copies of those minutes as soon as reasonably possible after each such meeting.

9. **Meetings**. The Rate Committee shall meet as often as necessary to accomplish the business of the Committee. The annual meeting of the Rate Committee shall occur on the second Monday of January each year, or on such other date in a particular year as is determined by the Rate Committee. Any Member may call a special meeting of the Rate Committee at any time upon written notice to all of the Parties, which notice must be given not less than ten (10) days prior to the special meeting.

10. **Bylaws**. The Rate Committee shall establish bylaws, consistent with this Agreement, relating to the activities of the Parties in connection with this Agreement. Those bylaws shall be applied uniformly among all of the Parties.

11. **Voting**. Except as otherwise expressly provided in this Section or otherwise in this Agreement, actions by the Rate Committee shall be on the basis of a majority of the weighted votes allocated to the Members of the Rate Committee. In each fiscal year, each Member of the Rate Committee shall be allotted a number of votes in each fiscal year proportional to the "wastewater revenue" paid to the Treatment Facility by the Party represented by that Member during the prior fiscal year, and the number of votes shall be adjusted each fiscal year. There will be a total of 1000 votes, and the number of each Party's votes will be calculated as a percentage of Wastewater Revenue paid and multiplied by 1000. For purposes of vote allocation, the definition of "Wastewater Revenue" shall be determined by the Committee and may be revised. Until such time as Wastewater Revenue is defined and calculated for each Party, the percentage of annual revenue paid by each Party shall be the basis for apportioning the weighted votes of the Members of the Rate Committee.

(a) Weighted Votes. Initially, the votes of the Members representing the Parties on the Rate Committee shall be allocated as follows, using 2014 revenue data:

Party	2014 Revenue ($ per year)	Proportional Contribution	Number of Votes
LOGAN	$4,080,289	66.7%	667
SMITHFIELD	$433,105	7.1%	71
HYDE PARK	$226,703	3.7%	37
NORTH LOGAN	$683,605	11.2%	112

RIVER HEIGHTS	$46,152	0.8%	8
PROVIDENCE	$436,297	7.1%	71
NIBLEY	$209,276	3.4%	34
TOTAL		100%	1,000

(b) Adjustment of Votes. Each fiscal year, the number of votes allocated to each Member shall be adjusted. The number of votes allocated to each Party shall be based on the proportion to the total wastewater revenue paid to the Treatment Facility in the prior fiscal year by the Party represented by that Member, relative to the total wastewater revenue paid to the Treatment Facility by all of the Parties during that prior fiscal year.

(c) Quorum. Five (5) Members, who collectively represent Parties holding not less than sixty percent (60%) of the total votes, shall constitute a quorum for purposes of a meeting of the Rate Committee. No action may be taken by the Rate Committee except at a meeting at which a quorum is present.

(d) The selection of any consultant to provide services relating to the Rate Committee's authority shall require the vote of at least eighty percent (80%) of the Members of the Rate Setting Committee, including at least three of the Contributing Parties.

12. **Separate Metering**. To determine the allocation of User Charges that are to be proportionately allocated among the Parties, Contributing Parties will have separate flow meters and appropriate monitoring equipment installed, calibrated, maintained, and controlled to determine accurate flow and Wastewater Load delivered to the Treatment Facility by each Party. User charges applied to Logan shall be based on estimated flows.

(a) For purposes of this Agreement, Wastewater Load shall be defined by the Rate Committee.

(b) Wastewater Load will be measured monthly by LOGAN.

(c) The cost of installing calibrating, maintaining, and monitoring flow meters and associated equipment for measurement of the Participating Parties' wastewater contributions shall be a cost to the Contributing Parties.

(d) The flow meters and associated monitoring equipment shall be operated, calibrated and maintained by LOGAN in accordance with the equipment manufacturers' printed recommendations. The meters shall be periodically serviced at the Board's direction by an independent contractor approved by the Board.

~~(e) At a minimum, I/I flows will be estimated annually based on the metered flows of the Contributing Parties, the total influent flow measured by the Treatment Facility and an appropriate comparison of water consumption records to sewage flows of each Party. Each Party will be responsible for the cost to treat the Inflow and Infiltration (I/I) contributed by its~~

~~respective collection system. However, the cost to treat the I/I collected by the interceptor sewers that feed into the Treatment Facility will be shared proportionately according to the percentages identified in the table in Section 11(a). For purpose of this agreement, interceptors shall be defined as those segments of the collection system between the metered inputs from contributing parties and the head works of the treatment facility, exclusive of contributing lines from Logan that serve customers and areas not attributable to contributing parties.~~

~~COMMENT: Covered by Section 5.~~

13. **Wastewater Treatment Enterprise Fund**. Wastewater treatment User Charge amounts received from the Parties shall be deposited in the LOGAN Wastewater Treatment Enterprise Fund. It is acknowledged that a portion of the reserve funds in this account came from payments by the contributing parties. The Transfer Fee and the Administrative Expense portion will be transferred to Logan's general fund in accordance with Utah law. The only funds transferred from the Wastewater Enterprise Fund shall be the Administrative Expense and Transfer Fee specified in Sections 5c and 5d.

14. **The Annual Report**. Before the next annual meeting of the Rate Committee, LOGAN shall supply to each of the Parties a written report containing the following information:

(a) An independent auditor's report and opinion on the accounting of the Operating Expenses and the reasonableness of the allocated administrative charges of the Treatment Facility incurred during the 12-month period ending on June 30.

(b) A report of the flow and Wastewater Load received from each of the Parties during the 12-month period.

~~(c) An accounting of the total amounts charged to and paid by each of the Parties during that 12-month period. This will include a report of the estimated I/I flows contributed by each Party's intereceptor sewer during a 12-month period and an assessment of the impact of the I/I flows from these interceptors on the operations and cost to the Treatment Facility.~~

~~COMMENT: Covered by Sect~~on 5

(d) The current budget for the operation of the Treatment Facility.

(e) A detailed explanation and accounting of Administrative Expenses.

15. **Failure to Act by Rate Committee**. If the Rate Committee fails to exercise the rate-setting authority granted to it under this Agreement, LOGAN shall have the power and authority to set rates for treatment of wastewater at the Treatment Facility, after providing written notice to the Contributing Parties.

16. **Protection of Bond Covenants.** Nothing in this agreement shall limit the power of LOGAN to establish fees and charges for wastewater treatment services or to perform in a manner that will satisfy its bond covenants relating to all revenue bonds issued by LOGAN that are secured, in whole or in part, by LOGAN's wastewater collection and treatment system; provided, that the Contributing parties shall not be responsible for the payment of any operation and maintenance or debt service expenses for any bonds issued by LOGAN that do not relate to the wastewater treatment system.

17. **Withdrawal by a Contributing Party**. The Parties acknowledge that, if any Contributing Party were to disconnect from the Treatment Facility, that Contributing Party's share of the cost of the operation and maintenance of the Treatment Facility and the other amounts payable by the Parties would be shifted to the other Parties, potentially increasing the amounts payable by those other Parties. Disconnection from the Treatment Facility will be outlined in detail in each Party's specific Sewer Treatment Agreement with Logan. Therefore, the Parties hereby agree that:

(a) Withdrawal Notice. If a Contributing Party proposes to withdraw from participation in the Rate Setting Committee, it shall give written notice thereof to all of the other Parties.

(b) Effective Date. The effective date of a Contributing Party's disconnection from the Rate Setting Committee shall be the date indicated in the written notice, or if not specified shall be the date received by the Committee.

(c) In the event that a Contributing Party disconnects from the Treatment Facility, the Contributing Party's membership on the Rate Committee shall automatically terminate.

(d) The Parties acknowledge that early disconnection provisions and any equitable adjustments required in the event of early disconnection will be subject to additional conditions established in each Party's specific Sewer Treatment Agreement with LOGAN.

(e) Nothing in this section shall prevent the Parties from pursuing other remedies available to them by law.

18. **Representations of Parties**. Each Party hereby certifies, warrants and represents that (a) it has the power to enter into this Agreement and all necessary action of its city council to authorize the execution and delivery of this Agreement; and (b) this Agreement does not conflict with, and the execution and performance hereof by the Party, will not constitute a breach of or a default under any contract, lease, court order, administrative rule, regulation or law to which the Party or its properties or either of them are subject or by which it is bound.

19. **Default**. In the event any of any default in the performance of any obligation hereunder or any breach of any term hereunder by a Non-Owner Party, the other Parties shall be entitled, in addition to any other remedy that may be available hereunder or under applicable law, to recover from the defaulting Party the costs incurred by those other Parties in enforcing their rights

hereunder or in seeking damages for any breach hereof, including reasonable attorneys' fees, whether such costs are incurred by litigation or otherwise. The remedies available under this Section shall be cumulative and in addition to any other remedies which may be available hereunder or under applicable law, and no election by any Party to exercise, modify or waive any remedy on any occasion shall be deemed to be an election to exercise, modify or waive the same or any other remedy on any other occasion. In the event of a material breach by a Contributing Party of this Agreement, the breaching Contributing Party shall have its Rate Committee membership suspended until the breach is cured. The determination of a "material breach" and the cure of said breach shall be made by the Rate Committee minus the participation of the alleged breaching Contributing Party.

20. **Amendment of Agreement**. It is the intention of the Parties that, if the Parties determine that this Agreement should be amended, an attempt shall be made to reach a consensus with respect to that amendment. However, this Agreement may be amended by a vote of at least eighty percent (80%) of the votes of the Members of the Rate Committee, including at least three of the Contributing Parties; provided, however, that (a) no such amendment shall impose upon any Party the obligation to pay fees and charges or other amounts in excess of the amounts described in this Agreement (unless that Party agrees to those additional amounts), and (b) unless LOGAN agrees otherwise, no such amendment shall amend or modify the protection of LOGAN's bond covenants set forth in Section 5(b) of this Agreement.

21. **Assignment**. No Party shall have the authority to transfer or assign any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of all of the other Parties.

22. **Binding Effect**. This Agreement shall be binding upon each of the Parties hereto and their respective assigns and successors-in-interest.

23. **Severability**. It is hereby declared that all parts of this Agreement are severable, and if any section, paragraph, clause or provision of this Agreement shall, for any reason, be held to be invalid or enforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect the validity or enforceability of the remaining sections, paragraphs, clauses and provisions of this Agreement.

24. **Complete Agreement**. This Agreement constitutes the full and complete agreement by, between and among the Parties as to the matters covered hereby, and supersedes all prior oral or written agreements, representations, conversations and understandings of the Parties.

25. **Sewer Treatment Agreement**. This Agreement does not take the place of each Party's individual Sewer Treatment Agreement with Logan. However, each Party's individual agreement may not be contrary to what is in this Agreement.

26. **Governing Law**. This Agreement shall be governed by the laws of the State of Utah.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by and through their duly authorized representatives on the date first above Written.

LOGAN CITY

By: _____
Mayor

Attest:

_____
City Recorder

Approved as to form:

_____
Attorney for Logan City

SMITHFIELD CITY

By: _____
Mayor

Attest:

_____
City Recorder

Approved as to form:

_____
Attorney for Smithfield City

HYDE PARK CITY

By: _____
Mayor

Attest:

_____
City Recorder

Approved as to form:

_____
Attorney for Hyde Park City

NORTH LOGAN CITY

By: _____
Mayor

Attest:

_____
City Recorder

Approved as to form:

Attorney for North Logan City

RIVER HEIGHTS CITY

By:_____
Mayor

Attest:

Approved as to form

City Recorder

Attorney for River Heights City

PROVIDENCE CITY

By: _____
Mayor

Attest:

Approved as to form:

City Recorder

Attorney for Providence City

NIBLEY CITY

By: _____
Mayor

Attest:

Approved as to form:

City Recorder

Attorney for Nibley City